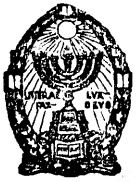
THE ARK OF THE COVENANT

SHALL OUR BISHOPS HAVE THE VETO POWER?

BY
GEORGE A. COOKE



THE METHODIST BOOK CONCERN
NEW YORK CINCINNATI

CONTENTS

INTRODUCTION

THIS note is not intended to be an attempt to analyze The Ark of the Covenant, written by the Rev. George A. Cooke, of the Wilmington Conference; neither is it my purpose to indorse fully all that is said in the book. No one who reads this book with care will hesitate to say that the author states his case with remarkable clearness and proves his points with convincing logic. We believe the book to be as timely as it is logical. It refreshes one's memory concerning the history of our Church and especially the history of the episcopacy. It will be sure to provoke discussion, and it is likely to affect church legislation in the future. Personally, we are very much inclined to believe that the author is right in his conclusions. Most of all, however, I wish to certify to the careful, studious faithfulness of the author, whom I have known for many years. Both his ability and integrity are beyond question, and he is a loyal Methodist. We bespeak for the little book a wide reading and we are not afraid to follow where his conclusions lead.

H. C. JENNINGS.

CHAPTER I

Origin of the Constitution

There is a written Constitution of the Methodist Episcopal Church. Some people do not seem to know it. There are Methodist ministers, some of them high in authority, who utterly ignore the Constitution of the Church. The legitimate inference is that they do not know what it is. If they know what it is and violate it with *malice prepense,* there is something more serious than ignorance the matter with them.

The Constitution of the Church is the foundation of all legitimate authority in the Church. It is the source of authority for the existence and work of the Quarterly Conference, the Annual Conference, and the General Conference. The General Conference is the chief lawmaking and governing body in the Church; but the General Conference derives its right to be and all its lawmaking and governing functions from the Constitution; it is supreme only within the limits prescribed by the Constitution. The authority of bishops

and of all inferior officers of the Church is derived from the Constitution of the Church. If this is true—and it is true—then the Constitution contains the foundation principles of the Church. To change the figure of speech, the Constitution is the *thorax of the Church; it contains and protects the vital organs of the Church.*

This is a profound as well as a vital subject. We must proceed carefully in our reasoning, so as to clear up every phase of the problem. We must go back to the *origin* of the Constitution, in order to understand it. To rightly interpret the past requires the caution of the historian, the discrimination of the scientist, and the imagination of the poet. The historic imagination is essential to a correct philosophy of history. The writer is anxious to reach every Methodist minister on the continent. He desires all to understand the subject, so that they may intelligently grapple with the evils that threaten the speedy overthrow of the Church. It is quite essential to trace the origin of our Constitution.

There was a time in the early history of our Church when there was no written Constitution. The Methodist Episcopal Church was

organized at the famous "Christmas Conference" of 1784, which met in Baltimore on December 24, of that year. The story of that Conference is thrilling with excitement. The Revolutionary War, the most dramatic and the most beneficent war ever prosecuted, had dragged its weary length to a glorious consummation at Yorktown, Virginia, where the proud Cornwallis surrendered to the redoubtable Washington. That was on October 19, 1781. The independence of the United States of America was not fully recognized by England and the nations of Europe until September 3, 1783, when the Treaty of Paris was signed.

How about the little band of Methodists? They had come through the war, in spite of much hardship and persecution. Francis Asbury, who came to America in 1771 as an "assistant" to Mr. Wesley, had kept a watchful eye on the scattered sheep in the wilderness, and had attended to their needs as best he could. Asbury was one of Wesley's "local" preachers. In the year 1784 he was the nominal head of about eighty local preachers—itinerant circuit riders. The statistics give about fourteen thousand souls gathered into the societies.

The preachers were heroic men, called of God to the work of holy ministry; but none of them had been ordained of men and given ecclesiastical authority to administer the sacraments. They earnestly besought John Wesley to meet their need in this respect. They were his "sons in the gospel," and they had sworn allegiance to his doctrines and his discipline. Mr. Wesley recognized that the providential hour had come for him to exercise an authority he had never used. He rose to the emergency like a priestly prophet of the Almighty. He set apart Thomas Coke, LL.D., a presbyter of the Church of England, as superintendent of the Methodist work in America. He believed he had a right to do it; Dr. Coke believed he had a right to do it, and the Methodists in America believed he had a right to do it. He had a right to do it. The moss-grown hierarchy of the Church of England questioned his right and threw suspicion over the "legitimacy" of the consecration. But the matter was out of their hands. Bishop Harris well says: "In this emergency the Methodists in America sought the advice and assistance of Mr. Wesley, and in response he declared that his scruples were now at an end, and that

he conceived himself at perfect liberty to exercise that right which he doubted not God had given him. He deemed it a fitting opportunity to relinquish the power he had hitherto exercised in America, and to provide for the organization of an Episcopal Church which should be as independent of the English hierarchy as the country was of the English crown." Mr. Wesley had all the rights in the case, moral and legal, and he did not need to consult anyone in the premises. He was, under God, the creator and organizer of the Methodist societies. He alone had authority to direct in the organization of the work in America. Whatever claim or right he had in America he voluntarily relinquished. He gave to the new Church in the New World the benefit of his wisdom, his indorsement, and his blessing. He commissioned Dr. Coke to supervise the organization of the American Church. Coke and Asbury first met in Barrett's Chapel, on the sacred soil of Delaware. It was arranged that there should be a Conference of all the preachers in Baltimore, Maryland, by Christmas. The intrepid Garretson undertook the task of notifying the preachers who were scattered from New York to Georgia. He set

forth on his faithful horse and succeeded in gathering sixty-four preachers to the Conference. At that time and place the Methodist Episcopal Church was born, created, or organized, as one may choose to call it. The official Minutes of the Conference say, "At this Conference we formed ourselves into an independent Church, and, following the counsel of Mr. Wesley, we thought it best to become an Episcopal Church, making the Episcopal office elective, and the elected superintendent amenable to the body of ministers and preachers."

It was left to each Annual Conference to enact its own legislation, as it was not practicable for all the preachers to meet every year. It was soon discovered that the Annual Conferences were enacting laws in conflict with one another. If this were allowed to continue the bond of connection would soon be broken, and the Church would cease to have real unity. It was decided by the Conferences that there must be a General Conference to make laws for the whole connection. The first General Conference met in 1792. All the preachers in full connection with Annual Conferences were members of the General Conference. This rule obtained until 1804, when it was

enacted that only preachers who had traveled for four years and were in full connection with the Conference were eligible to membership in that body. When the preachers met in General Conference they were free to make any law they chose to make. There was no authority over them and no written Constitution to limit their power. They did not *represent* the Annual Conferences, for they *were* the Annual Conferences. This point cannot be too carefully noted by those who would understand the real significance of the *written Constitution we now have.*

As the Conference increased in numbers there was much jealousy and consequent dissatisfaction growing out of the fact that the large Conferences, which were more favorably located, greatly outnumbered the others at these quadrennial gatherings. Of the one hundred and twelve who attended the General Conference held at Baltimore in 1804, there were seventy from the Baltimore and Philadelphia Conferences. On account of this situation there was a growing demand for a delegated General Conference, with restricted powers. This demand found expression in a memorial from the New York Conference at

its session of 1807. There are so many points of historic interest in this memorial that it should be read by every minister and layman. There were at that time seven Annual Conferences, namely, Baltimore, Philadelphia, New York, Virginia, New England, South Carolina, and Western. The memorial was as follows:

VERY DEAR BRETHREN: We are as one of the seven eyes of the great and increasing body of the Methodist Episcopal Church in these United States, which is composed of about five hundred traveling, and about two thousand local preachers, together with upward of one hundred and forty thousand members; these, with our numerous congregations and families, spread over an extent of country more than two thousand miles from one end to the other, amounting, in all probability, to more than one million of souls, which are, directly or remotely, under our pastoral oversight and ministerial charge, should engage our most sacred attention, and should call into exertion all the wisdom and talents we are possessed of, to perpetuate the unity and prosperity of the whole connection, and to establish such regulations, rules, and forms of government, as may, by the blessing of God in Jesus Christ, promote that cause of religion which is more precious to us than riches, honor, or life itself, and be conducive to the salvation of souls, among the generations yet unborn. The fields are white unto harvest before us, and the opening prospect of the great day of glory brightens continually in our view, and we are looking forward with hopeful expectations for the universal spread of scriptural truth

and holiness over the habitable globe. Brethren, for what have we labored, for what have we suffered, for what have we borne the reproach of Christ, with much long-suffering, with tears and sorrow, but to serve the great end and eternal purpose of the grace of God, in the present and everlasting felicity of immortal souls?

When we take a serious and impartial view of this important subject, and consider the extent of our connection, the number of our preachers, the great inconvenience, expense, and loss of time, that must necessarily result from our present regulations relative to our General Conference, we are deeply impressed with a thorough conviction that a representative or delegated General Conference, composed of a specific number, on principles of equal representation, from the several Annual Conferences, would be much more conducive to the prosperity and general unity of the whole body than the present indefinite and numerous body of ministers, collected together unequally from the various Conferences, to the great inconvenience of the ministry and injury of the work of God. We therefore present unto you this memorial, requesting that you will adopt the principle of an equal representation from the Annual Conferences, to form in future a delegated General Conference, and that you will establish such rules and regulations as are necessary to carry the same into effect.

As we are persuaded that our brethren in general, from a view of the situation and circumstances of the connection, must be convinced, upon mature and impartial reflection, of the propriety and necessity of the measure, we forbear to enumerate the various reasons and arguments which might be urged in support of it. But we do hereby instruct, advise, and request every member who shall go from our Conference to the General

Conference, to urge, if necessary, every reason and argument in favor of the principle, and to use all their Christian influence to have the same adopted and carried into effect.

And we also shall and do invite and request our brethren in the several Annual Conferences, which are to sit between this and the General Conference, to join and unite with us in the subject-matter of this memorial. We do hereby candidly and openly express our opinion and wish, with the firmest attachment to the unity and prosperity of the connection; hoping and praying that our Chief Shepherd and Bishop of our souls, the Lord Jesus Christ, may direct you in all wisdom, righteousness, brotherly love, and Christian unity.

We are, dear brethren, in the bonds of gospel ties, most affectionately yours.

By order and in behalf of the New York Conference, without a dissenting vote,

FRANCIS WARD, *Secretary.*

May the 7th, 1807.

This memorial furnishes invaluable and conclusive proof of the point we are trying to make clear—that there were no constitutional restrictions on the powers of the General Conference from the organization of the Church in 1784 to the Conference of 1808, when constitutional provision was made for a delegated General Conference, with limitations upon its powers of legislation.

CHAPTER II

The Contest for a Constitution

The memorial of the New York Conference, above referred to, was concurred in by three other Conferences—the New England, the South Carolina, and the Western—which showed that there was a strong sentiment in its favor. Upon the organization of the General Conference of 1808 the memorial was read, and was referred to a committee of two members from each Annual Conference, chosen by the members present from each Annual Conference from among themselves. The committee thus consisted of fourteen members and was composed of the following preachers: Philadelphia Conference, John McClaskey, Thomas Ware; Baltimore Conference, Stephen G. Roszel, Nelson Reed; New York Conference, Ezekiel Cooper, John Wilson; New England Conference, George Pickering, Joshua Soule; Western Conference, William McKendree, William Burke; Virginia Conference, Philip Bruce, Jesse Lee; South

Carolina Conference, William Phœbus, Josiah Randle. We reproduce the names of the committee for two reasons: (1) it was the most important committee ever created by a General Conference; (2) several of the men who composed the committee afterward became famous in the annals of Methodism. He must be dull indeed who does not recognize that the work of that committee was of vast importance in the future development of our great Church.

Let no one imagine there was an easy task before that committee. The memorial of the New York Conference was approved by the four Conferences that were situated the farthest from Baltimore. The Baltimore, the Philadelphia, and the Virginia Conferences failed to approve of the plan for a delegated General Conference, for the very cogent reason that they would lose representation in such a Conference. Those were the three largest Conferences and could easily outnumber the others in any test. Some may see in that the evidence of unconscious carnality working itself out, even at that early date. Bishop Asbury, however, strongly favored the New York memorial. His great influence at that time

helped mightily in turning the tide of battle toward the larger vision. Bishops were at that time members of the General Conference, and as such could introduce motions and participate in debate. That right was taken from them by the Constitution which created the delegated Conference. Such has been the uniform construction of the Constitution by its ablest expounders. The appointment of the committee was upon the motion of Bishop Asbury "that the committee be formed of an equal number from each Annual Conference." This secured a majority of the Committee in favor of the New York proposition. The committee proceeded carefully with its work, realizing its vast importance to the Church. A subcommittee of three was appointed, consisting of Ezekiel Cooper, Joshua Soule, and Philip Bruce. They each decided to draw up a plan of government for the proposed delegated General Conference. The plan of Joshua Soule, of New England, was finally recommended by the committee. Soule had a mind whose grasp was strong on the fundamental principles of government. If Asbury was the Washington of early Methodism, Soule was its Jefferson.

The committee was appointed on May 9 and brought in its report on May 16 after one week of careful and prayerful deliberation. The report of the committee was as follows:

Whereas, It is of the *greatest importance* that the *doctrine, form of government*, and *general rules* of the United Societies in America *be preserved sacred and inviolable;* and

Whereas, Every prudent measure should be taken to *preserve, strengthen*, and *perpetuate* the *union* of the *connection;* therefore your Committee, upon mature deliberation, have thought it advisable that the third section of the form of Discipline shall be as follows:

SECTION III

Of the General Conference

1. The General Conference shall be composed of delegates from the Annual Conferences.

2. The delegates shall be chosen by ballot without debate, in the Annual Conferences respectively, in the last meeting of the Conference previous to the sitting of the General Conference.

3. Each Annual Conference respectively shall have a right to send seven elders, members of their Conference, as delegates to the General Conference.

4. Each Annual Conference shall have a right to send one delegate in addition to the seven for every ten members belonging to such Conference, over and above fifty; so that if there are sixty members, they shall send eight; if seventy, they shall send nine; and so on in proportion.

5. The General Conference shall meet on the first day

of May, in the year of our Lord 1812; and thenceforward on the first day of May, once in four years perpetually, at such place or places as shall be fixed on by the General Conference from time to time.

6. At all times when the General Conference is met it shall take two thirds of the whole number of delegates to form a quorum.

7. One of the general superintendents shall preside in the General Conference; but in case no general superintendent be present, the General Conference shall choose a president *pro tempore.*

8. The General Conference shall have full powers to make rules, regulations, and canons for our Church under the following limitations and restrictions:

The General Conference shall not revoke, alter, or change our Articles of religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

They shall not lessen the number of seven delegates from each Annual Conference nor allow a greater number from any Annual Conference than is provided in the fourth paragraph of this section.

They shall not change nor alter any part or rule of our government, so as to do away episcopacy, or to destroy the plan of our itinerant general superintendency.

They shall not revoke or change the General Rules of the United Societies.

They shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before the society or by a committee, and of an appeal.

Neither shall they appropriate the produce of the Book Concern or of the Charter Fund to any purpose other than for the benefit of the traveling, superan-

nuated, supernumerary, and worn-out preachers, their wives, widows, and children.

Provided, Nevertheless, that upon the joint recommendation of all the Annual Conferences, then a majority of two thirds of the General Conference succeeding shall suffice to alter any of the above restrictions.

The plan was the plan of Joshua Soule, of the New England Conference. It was not agreed to in its details by Ezekiel Cooper, of New York. However, it was now before the Conference. It was freely discussed in all its phases. Dr. Nathan Bangs, the great historian of Methodism, who published his history of the Methodist Episcopal Church in 1845, says in regard to the report of this committee, which was really the first draft of a Constitution for the Church: "After discussing this report for a whole day, it was, by a vote of the Conference, postponed until the reconsideration of the question respecting the manner in which the presiding elders should thereafter be appointed. After it was decided that they should continue to be appointed as heretofore by the bishops, on Wednesday the 18th, the consideration of the report was resumed, and after some debate the entire report was, as before stated, rejected by a majority of seven votes.

"The rejection of this report was a source of much regret and disappointment to most of the older preachers who were present, and particularly to Bishop Asbury, as they clearly saw the necessity of adopting some plan by which the *doctrines of the Church,* its *form of government,* and *its general rules* might be preserved from deterioration, and also by which a more equal representation from the several Annual Conferences should be secured" (Vol. II, page 231.)

Dr. H. M. Du Bose, of the Methodist Episcopal Church, South, has treated this period quite thoroughly in his Life of Joshua Soule. He says, "The draft made by Cooper has not been preserved to us in its entirety, but it is understood that it differed from the plan of Soule chiefly in its treatment of the episcopacy." He really favored a districted episcopacy with a separate bishop for each Conference. He was a great and a good man, and no doubt thought he would stand a good show of election to the episcopacy in case his theory should prevail.

Jesse Lee, of the Virginia Conference, who at an earlier date was the apostle of Methodism to New England, was a member of the famous

committee above referred to. He was the original proposer of a delegated General Conference. Now he opposed the resolutions on the ground that the big Conferences—the Virginia, the Baltimore, and the Philadelphia—would lose influence by it. He also contended that delegates should be chosen by seniority. "With this contention he, with others, was able to maintain the debate during practically the entire day."

"But notwithstanding this initial success, the adoption of the Constitution was by no means assured. On Wednesday afternoon it was moved 'that the vote on the first resolution of the committee of fourteen be taken by ballot.' That resolution was: 'The General Conference shall be composed of delegates from the Annual Conferences.' When the ballots were counted, it was found that the measure was lost by a slender majority of seven votes. The result was, however, decisive; the Constitution was lost. The consequences came near being serious. Great excitement prevailed, for the Constitutionalists attributed their defeat to the three Central Conferences, and chiefly to the Baltimore and Philadelphia contingents. 'The New England delegates

asked leave of absence,' says Bishop McTyeire, who undoubtedly received this information from the lips of Bishop Soule himself. The Western delegates threatened to ride away to their circuits, while others wept or sat with shadowed faces contemplating what seemed the end of connectional Methodism. The spirit of Soule was sad, but his lips spake no word while he awaited the final outcome. Bishops Asbury and McKendree, after much persuasion, prevailed on the dissatisfied delegates to remain over a day to see if an understanding could not be reached" (Life of Soule, pp. 82, 83).

After the lapse of four days, on Monday, May 23, the Conference was nearing its adjournment and it became necessary to fix the time and place of the meeting of the next General Conference. For the purpose of reintroducing the question of a Constitution it was moved that they first determine who should compose the next General Conference. Enoch George, afterward a Bishop, moved "that the General Conference shall be composed of one member for every five members of each Annual Conference," and the motion carried by a decisive majority. This allowed

of a larger representation than was provided for in the original report and satisfied the larger Conferences. Joshua Soule then moved that the method of selecting delegates in the Annual Conferences should be "either by seniority or choice." This silenced the opposition of Jesse Lee and gained his help for future stages of the contest.

From that point the current of legislation ran smoothly, and the remainder of the original Constitution as drafted by Joshua Soule was adopted with only minor verbal changes.

The adoption of this Constitution was a remarkable achievement. The framers of it seemed to grasp the great historic significance of the Methodist movement. They realized that upon them rested the responsibility of binding the vital things of the Church with bands of steel. It must be done then and there, and they were the men who must do it. Under the leadership of right-thinking, forward-looking men like Asbury, McKendree, Soule, Lee, Pickering, Roszel, and George, that body of consecrated men rose magnificently to the occasion and enacted what they conceived to be the will of God into the legislation of the

Church. They gave to the Church a rock-ribbed, ironclad Constitution that has enabled it to outride the storms of a century.

Dr. Charles Elliott, one of the giants of a former generation, said of the Constitution as adopted in 1808: "To a very considerable extent we owe to Bishop Soule the restrictive regulations, or, rather, the Constitution of the Methodist Episcopal Church, which exhibits a degree of wisdom and prudent foresight that characterizes men of the first mental powers. In fact, those who know Bishop Soule would expect from him the wise deliberation necessary to produce such a measure."

Bishop McTyeire, of the Methodist Episcopal Church, South, speaks in high praise of the work of Joshua Soule in connection with the formation of this Constitution. He says: "One obvious advantage of Mr. Soule's theory will be accepted as an offset to many disadvantages: it promotes connectionalism; it ties and bands the churches and Conferences together. He succeeded in getting adopted the practice and rule which still holds in the Church—of being scarce of bishops, making but few, and giving them a wide and equal interest in all the Conferences and all the

Conferences an equal interest in them. It was a breadth of mission which suited well his own elevated nature and ample powers when in time he was called to it." Our good friends of the Southern branch may be pardoned for their failure to observe that the Constitution made no provision for the seceding procedure that was carried out in 1844. Of course we of the North understand that a "condition" as well as a "theory" arose at that time. The condition had to be met, even though the theory had to suffer for the time being.

The Rev. James Dixon, D.D., an English Wesleyan preacher of great eloquence and power, who came as a fraternal delegate to the General Conference of 1848, was a great admirer of our Constitution. His words, spoken so long ago, can be appreciated by us. He says: "Here, then, we have the Magna Charta of Methodism in the States. This document indicates the good sense and the diligent forethought of those who framed it. We see from it that the American Methodists are no revolutionists, and that they desire to escape such a catastrophe. The legislative power [of the General Conference] is not at liberty to alter anything deemed fundamental.

This limits the functions of the assembled ministers within what may be considered a settled and fully recognized constitution. This Constitution supposes various points as already settled, to which all agree, and which are not to be disturbed. The doctrines of the Church are among these fundamental principles. Here innovation generally begins when Churches decline. The loss of vital religion always causes the truths of the evangelical system to become tasteless. The age and circumstances favor this sort of adventurous spirit. It must consequently be considered a wise arrangement, that the great truths of the Evangelical system embodied in their articles of religion are not to be altered."

At the General Conference of 1908, held in Baltimore, there was a centennial celebration of the founding of the Constitution of the Church. At that time Bishop Charles W. Smith, D.D., one of the ablest constitutional interpreters of the Church, read a strong paper on "The Constitution of the Methodist Episcopal Church." He used these words: "When, therefore, we discuss the Constitution as it is, we are considering the document substantially as it came from the hands of its

framers. This is a remarkable fact, and shows the wisdom and foresight of the fathers and the conservatism of their sons."

Nathan Bangs, the philosophical historian and the ecclesiastical statesman of the middle period of Methodism, says:

"The unanimity with which these restrictive regulations were adopted by the Conference shows the deep sense which was generally felt of the propriety of limiting the powers of the General Conference, so as to secure forever the essential doctrines of Christianity from all encroachments, as well as those rules of moral conduct, so succinctly and precisely embodied in the General Rules, and also to prevent the appropriation of the available funds of the Church from being diverted to other objects than those for which they had been established. Call these rules, therefore, *restrictive regulations,* or a *Constitution of the Church*—for we contend not about names merely—they have ever since been considered as sacredly binding upon all succeeding General Conferences, limiting them in all their legislative acts, and prohibiting them from making inroads upon the doctrines, General Rules, and government of the Church.

"Before this, each General Conference felt itself at full liberty, not being prohibited by any standing laws, to make whatever alterations it might see fit, or to introduce any new doctrine or item in the Discipline, which either fancy, inclination, discretion, or indiscretion might dictate. Under this state of things, knowing the rage of man for novelty, and witnessing the destructive changes which have frequently laid waste churches, by removing ancient landmarks, and so modifying doctrines and usages as to suit the temper of the times, or to gratify either a corrupt taste or a perverse disposition, many have felt uneasy apprehensions for the safety and unity of the Church, and the stability of its doctrines, moral discipline, and the frame of its government; and none were more solicitous upon this subject than Bishop Asbury, who had labored so long with an assiduity equaled by few, if, indeed, any, and suffered so much for the propagation and establishing of these important points; he therefore greatly desired, before he should be called hence, to see them fixed upon a permanent foundation. The lively satisfaction too with which this act of the Conference was received generally, both by

ministers and people, abundantly proves the wisdom which presided in that council which devised these resolutions, and applauds the prudence and caution with which they were so cordially adopted. And although the progress of events has dictated the expediency of some modification in the ironlike bond of the proviso, yet time and experience have borne a faithful testimony to the salutary influence of the restrictions themselves, on the peace and unity of the Church" (History of Methodist Episcopal Church, Vol. II, pp. 233, 234).

CHAPTER III

An Exposition of Principles

What was the Constitution as adopted by the General Conference of 1808? There has been some discussion and consequent confusion at this point. That the six Restrictive Rules were in the Constitution, there never has been any question. But how about the provisions for the General Conference that precede the restrictions? How about the proviso, which Dr. Bangs called the "ironlike bond"? No doubt these features were intended to be constituent parts of the Constitution. No General Conference could meet and lawfully transact business except on the conditions laid down in these preliminary regulations, nor could those regulations be changed by any General Conference. Hence they must be a part of the Constitution, as it required the constitutional process to change any part of them. The same line of reasoning proves that the proviso was a part of the Constitution.

The question was raised: Who shall compose the General Conference, and what are the regulations and powers belonging to it? All that follows was to be the Constitution of the General Conference and the Constitution of the Methodist Episcopal Church.

1. The General Conference shall be composed of one member for every five members of each Annual Conference, to be appointed by seniority or choice, at the discretion of such Annual Conference; yet so that such representatives shall have traveled four full calendar years from the time they were received on trial by an Annual Conference, and are in full connection at the time of holding the Conference.

That section fixes the essential qualification of all delegates from all the Annual Conferences, and it fixed the ratio of representation, so that the Conferences would be represented on an equitable basis. It was not left to the Annual Conferences to decide those points. They must abide by the same rule. The principle remains the same until this day, but the ratio has been changed to meet the growth of the Church.

2. The General Conference shall meet on the first day of May, in the year of our Lord 1812, in the city of New York, and thenceforward on the first day of May once in four years perpetually, in such place or

places as shall be fixed by the General Conference from time to time; but the general superintendents, with or by the advice of all the Annual Conferences, or if there be no general superintendents, all the Annual Conferences, respectively, shall have power to call a General Conference, if they judge it necessary at any time.

3. At all times when the General Conference is met it shall take two thirds of the representatives of all the Annual Conferences to make a quorum for the transacting of business.

4. One of the general superintendents shall preside in the General Conference; but in case no general superintendent be present, the General Conference shall choose a president *pro tempore.*

There was failure in section four to define what was meant by the presidency of a General Conference. Was the president to act simply as an ordinary moderator, or was he to have some *legislative* power? Could he refuse to entertain motions whose aims or result would be to violate the Constitution? Did he have a veto power as bishop and presiding officer? Was it intended that the general superintendents should be members of the General Conference with rights on the floor if they chose to speak? Those matters, important as they are, were left undefined. Was it an oversight? or were there differences of opinion that could not be reconciled?

5. The General Conference shall have full powers to make rules and regulations for our Church under the following limitations and restrictions, namely:

In other words, the *General* Conference, as distinguished from the Annual Conferences, could legislate and administer the affairs of the entire connection, without consulting the Annual Conferences, within certain limitations. There were certain rights and powers that the Annual Conferences would not surrender to the General Conference. These exceptions and limitations are known in our history as the *Restrictive Rules.* They constitute the backbone of our ecclesiastical framework.

THE RESTRICTIVE RULES

1. The General Conference shall not revoke, alter, nor change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

The early preachers were jealous for the doctrines of Methodism as propounded and advocated by John Wesley. They were jealous with a godly jealousy; but they were well enough acquainted with the weakness of human nature to foresee the danger. They were wise enough to take precautionary measures to safeguard the doctrines against

corruption and disruption. By this rule no change could be made in the doctrines of the Church as *then* held, except by the Annual Conferences themselves. All the Annual Conferences must be consulted, and all must agree to it before any change could be made.

When the more liberal proviso of 1832 was adopted, making it possible for three fourths of the members of Annual Conferences and two thirds of the succeeding General Conference to amend the Constitution, the *First Restrictive Rule* was *exempted* from *the operation of that proviso.* There is a way for the doctrinal standards to be changed. It is explained in the proviso of the Constitutional restrictions adopted in 1808.

"*Provided,* Nevertheless, upon the joint recommendation of ALL the Annual Conferences, then a majority of two thirds of the General Conference succeeding, shall suffice to alter any of the above restrictions." This rule has been exempted from all the succeeding provisos to the Constitution and stands where it stood originally. It should be noticed that the recommendation must come from the Annual Conferences, and not from the General Conference, as may be done with other

constitutional changes. It will be thus seen that the doctrines of the Church are buttressed and fortified against change. No feature of the Constitution is so securely protected as the doctrines of the Church. Where can these doctrines be found? The "Articles of Religion" are specified. These are twenty-five in number. The first twenty-four came from the hand of John Wesley. He took them from the thirty-nine Articles of the Church of England. Mr. Wesley was an ordained presbyter of the Church of England and was thoroughly familiar with the doctrines and rules and also with the history of that Church. Its doctrines and its ritual were a compromise of irreconcilable elements. There were elements of Roman Catholicism in its creed, and also elements of fatalistic predestinarianism. Wesley had fought for fifty years to purify the Church of England, and had succeeded in raising up a powerful evangelical party; but the corruption was too strongly entrenched to be overthrown. He would have the new Church in America begin its glorious career without the handicap of Romanism, ritualism, and fatalism, in its creed. He cast out fifteen of the thirty-nine articles, and made some revisions

in most of the others. He was capable of doing it, for he was the most learned theologian of his day. He fully realized the momentousness of the occasion.

The preachers at the "Christmas Conference" in Baltimore resolved to organize themselves into the "Methodist Episcopal Church in America." In consistency with this they afterward[1] added Article XXV, in which they declared their loyalty to the government of the United States of America. We are essentially an American Church—with missions in foreign lands. Article XXV is not strictly speaking an "Article of Religion" at all. However, it is thus fixed in the most secure place of the Constitution of the Church, that we are an American Church, and that we approve the form of government adopted by the framers of the Constitution of the United States.

The Articles of Religion contain all that is necessary for the maintenance of a sturdy and vigorous evangelical orthodoxy. The Holy Scriptures are the only recognized canons of doctrine; there is the Church's bulwark against rationalism. The doctrine of the Trinity is set forth with Athanasian clearness and

[1] The General Conference of 1804.

strength; there is the bulwark against Unitarianism. The doctrine of human depravity is set forth as plainly as language can state anything; there is the defense against Pelagianism and Universalism. The doctrine of justification by faith in Christ alone is declared to be a "most wholesome doctrine, and very full of comfort"; there is the central truth of Protestantism—the very heart of the Pauline gospel. With such a creed we can drive away every strange, unscriptural doctrine from the Church. Any minister or layman who teaches contrary to these may be judicially arraigned and expelled from the Church. Nor would anyone have reason to complain if this were done. No one can question the clearness or the authority of our Articles of Religion.

The question has often been raised and vigorously discussed: Have we any standards of doctrine aside from the Articles of Religion? If so, what are they? "Nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine." That language would indicate that something else was in their minds, in addition to the Articles. But what? It would have saved a great deal of discussion and perplexity

if this Article had been more explicit. As a matter of fact, it can be historically proven that the four volumes of printed sermons of John Wesley, comprising fifty-three doctrinal sermons, now published by our Book Concern in one volume, were the principal source of doctrinal instruction and doctrinal authority among the founders of Methodism in England and America. The substance of his teaching is found in those sermons. His Notes on the New Testament, and his doctrinal tracts are but more detailed or more exhaustive expositions of what is taught in the sermons with sufficient clearness. The Sermons do not differ from the Articles; they are based upon them and bring out with more distinctness the doctrines of personal experience which are the glory of Methodism—the new birth, the witness of the Spirit, and Christian perfection.

2. They shall not allow of more than one representative for every five members of the Annual Conference, nor allow of a less number than one for every seven.

The ratio or basis of representation has been changed from time to time as the growth of the Church has required. This does not make an exactly equitable basis, but it is as near an approach to it as is practical, and has proven

satisfactory for more than a hundred years. The ratio should be changed soon, as our General Conferences are too large.

3. They shall not change nor alter any part or rule of our government, so as to do away episcopacy, nor to destroy the plan of our itinerant general superintendency.

That rule was intended to define our episcopacy, and to forbid the General Conference meddling with it as defined, except as they should be given consent by the vote of the Annual Conferences. It was an important matter, the most important and the most fundamental matter that could come before them, aside from the doctrines of the Christian faith. They were devising and fixing a plan of government for the Church of God. Those Methodist preachers at the Conference of 1808 were not men of scholastic training. There was not a college graduate among them. No one can deny that they were men of rugged intelligence. They were men of the type of George Washington and Abraham Lincoln, men of little scholastic training but of vigorous minds. They were men who familiarized themselves with the problems of their day. They came from the ranks of the common people

and they mingled with all classes. They naturally became good judges of men. They lived in an era of constitution-making. Most of them were boys when the Revolutionary War was fought, and all of them were familiar with the great discussions that grew out of the adoption of the Constitution of the United States. They understood the weaknesses and the defects of government. They were men of noble courage; men who suffered persecution in behalf of their fellow men; men who would not fawn before greatness nor cringe before power. They discussed the problem of the government of their Church to their hearts' content, and arrived at their decision after mature deliberation. By their mental equipment, by their spiritual equipment, and by their moral equipment they were peculiarly fitted to decide upon a wise plan of government.

It was clear enough that they were decided that the legislative and the judicial functions of the government should be vested in the Annual Conferences and the General Conference. But laws do not execute themselves; nor do plans of church government work automatically. There was needed some provision

for the administration of the plan of government and for the execution of the laws.

They were convinced that the episcopal form of government was the most scriptural and the most efficient. They were not unmindful of the fact that the Roman Catholic Church was ruled by an episcopacy. They were well aware that the State Churches of the European nations were ruled by bishops. They knew of the scandals, the corruption, and the tyranny that had crushed and ruined the spiritual life of the people under the dominion of such Churches. They also knew that these things had come about through the *abuse* of episcopacy, and not through the principle of episcopacy. They proposed to define the duties and limit the powers of the office so that the incumbents of the office would be efficient for good, but hindered from doing wrong by restraining barriers.

In the year 1796 Dr. Thomas Coke, who was consecrated and sent by Mr. Wesley as the first general superintendent to America, and Mr. Francis Asbury, both of whom were appointed by Wesley and elected by the preachers to the office of general superintendent, issued jointly a treatise which they called Notes to the Dis-

cipline. They understood the mind of John Wesley and they were in thorough sympathy with his aim of spreading vital godliness over the earth.

Robert Emery, a son of Bishop John Emery, published a History of the Discipline in 1843, in the appendix of which he reproduces these Notes almost in their entirety. Dr. Emery says: "The fact has already been noticed that Dr. Coke and Bishop Asbury appended explanatory notes to the Discipline in 1796. These consisted partly of Scripture proofs of the doctrines and rules of the Church and partly of expositions of the Discipline. The latter, constituting about two thirds of the whole, are inserted in this appendix, under their respective heads. The bishops themselves disclaimed having any authority to make laws or regulations, much less can their notes be regarded in that light, now that the Discipline has been considerably modified. But they are still interesting and important, as containing the views of the first bishops of the Methodist Episcopal Church respecting its discipline at that time, and also, as having been prepared at the request of the General Conference of 1796, and having received the

implied sanction of the General Conference of 1800, which directed that they should be printed in such a manner that they could be conveniently bound up with the Form of Discipline.

Extracts from these Notes are introduced here to show that the preachers who made up that Conference of 1808 understood well what they were doing when they incorporated the rule on Episcopacy into the Constitution of the Church. They knew the principles involved, but they were not *theorists* lost in Utopian dreams of an idealized society. They had a quarter of a century of practical experience with the thing they were now enacting into legislation. We have many highly educated ministers in the Church, and men too of fine Christian character, who have never given much study to the principles and the practice of church government. They have taken things for granted and have never had these problems forced upon them. They are matters of *supreme importance,* and every Christian minister should make special study of them. We will present a few extracts to show with what candor and thoroughness our first bishops discussed these themes. In regard to

the *episcopacy* of the Methodist Episcopal Church, they had something to say:

"The only point which can be disputed by any sensible person is the *episcopal* form which we have adopted; and this can be contested by *candid* men, only from want of acquaintance with the history of the Church."

"The late Rev. John Wesley recommended the episcopal form to his societies in America; and the General Conference [1784], which is the chief synod of our Church, unanimously accepted it. Mr. Wesley did more. He first consecrated one for the office of a bishop, that our episcopacy might descend from himself. The General Conference unanimously accepted the person so consecrated, as well as Francis Asbury, who had for many years before exercised every branch of the episcopal office, excepting that of ordination. Now, the idea of an apostolic succession being exploded, it follows that the Methodist Church has everything which is scriptural and essential to justify its episcopacy. Is the unanimous approbation of the chief synod of a Church necessary? This it has had. Is the ready compliance of the members of the Church, with its decision, in this respect, necessary? This it has had and

continues to have. Is it highly expedient that the fountain of the episcopacy should be respectable? This has been the case. The most respectable divine since the primitive ages, if not since the time of the apostles, was Mr. Wesley. His knowledge of the sciences was very extensive. He was a general scholar, and for any to call his learning in question would be to call his own. . . . He was peculiarly attached to the laws and customs of the Church in the primitive times of Christianity. He knew that the primitive Churches universally followed the episcopal plan; and, indeed, Bishop Hoadley has demonstrated that the episcopal plan was universal till the time of the Reformation. Mr. Wesley, therefore, preferred the *episcopal* form of church government; and God has wonderfully blessed it among us."

"The authority of Mr. Wesley and that of the bishops in America differ in the following important points:

"1. Mr. Wesley was the patron of all the Methodist pulpits in Great Britain and Ireland *for life,* the sole right of nomination being vested in him by all the deeds of settlement, which gave him exceeding great power. But

the bishops in America possess no such power. The property of the preaching houses is vested in the trustees, and the right of nomination to the pulpits, in the General Conference, and in such as the General Conference shall, from time to time, appoint. This division of power in favor of the General Conference was absolutely necessary. . . . Here, then, lies the grand difference between Mr. Wesley's authority in the present instance and that of our American bishops. The former, as the father of the connection, was allowed to have the *sole, legal, independent* nomination of preachers to all the chapels; the latter are *entirely dependent* on the General Conference.

"But why, may it be asked, does the General Conference lodge the power of stationing the preachers in the episcopacy? We answer, on account of their entire confidence in it. If ever, through improper conduct, it loses that confidence in any considerable degree, the General Conference will, upon evidence given, in a proportionable degree, take from it this branch of its authority. But if ever it evidently betrays a spirit of tyranny or partiality, and this can be proved before the General Conference, the whole will be taken from it;

and we pray God that in such case the power may be vested in other hands.

"2. Mr. Wesley, as the venerable founder of the whole Methodist society, governed without any responsibility whatever. . . . But the American bishops are as responsible as any of the preachers. They are perfectly subject to the General Conference. They are indeed conscious that the Conference would not degrade nor censure them unless they deserved it.

"But this is not all. They are subject to be tried by seven elders and two deacons, as prescribed above, for any immorality or supposed immorality, and may be suspended by two thirds of these, not only from all public offices, but from being private members of the society, till the ensuing General Conference." "We have drawn this comparison between our venerable father and the American bishops to show to the world that they possess not, and, we may add, they aim not to possess, that power which he exercised and had a right to exercise, as the father of the connection; that, on the contrary, they are perfectly dependent; that their power, their usefulness, themselves, are entirely at the mercy of the General Conference, and, on the charge of immorality, at

the mercy of two thirds of the little Conference of nine."

"All the Episcopal Churches of the world are conscious of the dignity of the episcopal office. The greatest part of them endeavor to preserve this dignity by large salaries, splendid dresses, and other appendages of pomp and splendor. But if an episcopacy has neither the dignity which arises from these worldly trappings, nor the infinitely superior dignity which is the attendant of labor, of suffering, and enduring hardship for the cause of Christ, and of a venerable old age, the concluding scene of a life devoted to the service of God, it instantly becomes the disgrace of a Church and the just ridicule of the world."

"We verily believe, that if our episcopacy should, at any time, through tyrannical or immoral conduct, come under the severe censure of the General Conference, the members thereof would see it highly for the glory of God to preserve the present form, and *only* to change the men."

By the Third Restrictive Rule the General Conference was forbidden "to do away episcopacy." The preachers themselves must be consulted, and must consent to the change

before their representatives in General Conference could do away episcopacy. So far as the form of government was concerned, they were thoroughly committed to the belief that the episcopal form of government was the best. Hence they made it the chief corner stone of the system. There were three possible systems that they might have adopted: the congregational, the synodical, and the episcopal. They were more or less familiar with these various forms of church government. They knew the advantages and the disadvantages of them all. After a quarter of a century of experience under it, and knowing full well its limitations and its possibility of danger, they deliberately decided in favor of episcopacy. What did they mean by "episcopacy"? They did not leave the term in a nebulous state of general indefiniteness. They proceeded to define it so as to differentiate it from the episcopacy as understood and practiced among Roman Catholics, Protestant Episcopalians, and the political bishops of European nations. They believed in and proposed to perpetuate the episcopacy as it had been maintained under the matchless leadership of the redoubtable Asbury. They "shall not change nor alter

any part or *rule* of *our government*" nor "*destroy the plan* of our itinerant general superintendency" (our episcopacy). Is it not as plain as language can make anything that the General Conference was forbidden to meddle or tamper in any way with the episcopacy of our Church until it first consulted and secured the consent of the Annual Conferences?

It is clear from the language used that our episcopacy is defined in three particulars:

1. It was a *superintendency,* whose duty it was and is to *oversee* the temporal and spiritual affairs of the Church. They were to oversee, not as idle curious onlookers, but as men clothed with responsibility and authority *to act* for the Church and in the interest of the Church. To their mind, representatives of the episcopacy were not to be showy and expensive ornaments of an effete ecclesiasticism, nor were they intended to be official figureheads, to give the stamp of authority to what had been done by irresponsible people—*superintending* is a different matter.

2. The episcopacy, through its representatives, was to be *general* in the scope of its *responsibility* and in the scope of its *authority.* "General" is used in opposition and in

contradistinction to *diocesan,* or *districted,* or *limited* jurisdiction. The General Conference as a lawmaking body was by this rule, forbidden the right to change this feature of our episcopacy. A majority of any particular General Conference might be convinced that it would be better to district the bishops and circumscribe their administration. In fact, a *very large* majority might favor it; still there would be no *authority* to do it. It is conceivable that a General Conference might be unanimous in the opinion that there should be a modification in the episcopacy in this particular, and the bishops present might all agree to it; still they could not do it, for this rule absolutely prohibits the thing being done by a General Conference. *It can be done,* but only by a constitutional change. The preachers who *were the General Conference in 1808,* and who authorized our present *delegated* General Conference, enacted that their *delegates* could not destroy the episcopacy as they established it, without consulting all the preachers in all the Annual Conferences.

3. It was to be an *itinerant* general superintendency. Asbury itinerated mostly on horseback. We are informed that he was a good

judge of horses, and that he always kept a good one. There were no airships, automobiles, steam cars, electric cars, and very few stagecoaches in those days. Horseback-riding was a very respectable means of locomotion. The method was not the essential, nor even an important, feature of the episcopacy. That our bishops should travel continually and extensively throughout the domain of the Church was the essential thing. It is their business to learn firsthand the condition and the needs of the Church, in order that they may superintend and administer the work *wisely*. They were given authority to appoint elders to preside over districts within the bounds of an Annual Conference, who should be "eyes and ears" for them. The bishops are to be "eyes and ears" for the whole Church. Their duty is plainly to have a bird's-eye view of the whole field of our denominational enterprise, and also a detailed knowledge of every particular field. Wherever they see the work is lagging or deteriorating it is theirs to learn the cause or causes, and apply the remedy.

The General Rules

4. The Fourth Restrictive Rule relates to

the moral government of the Church. These rules were formulated by Mr. Wesley to regulate the conduct of the members of his "societies," and to stimulate spiritual life. These rules had been the recognized standards of conduct among Methodists for sixty years in England and for forty years in America. They were tested and tried. The worldly-minded looked upon these rules as "narrow," and they were correct in their judgment. However, they were not *too* narrow. The Saviour had said, "Strait is the gate and narrow is the way." Experience teaches that the path of rectitude is not very broad. However, this is not a place for moralizing. We are discussing questions of law. The General Rules are a part of the Constitution of the Church. They cannot be changed by authority of the General Conference. They are based on the plain teachings of Holy Scripture. They cannot be repudiated without discarding the Bible. "These are the General Rules of our societies; all which we are taught of God to observe, even in his written Word, which is the only rule and the sufficient rule, both of our faith and practice. And all these we know his Spirit writes on truly awakened hearts.

If there be any among us who observes them not, who habitually breaks any of them, let it be known unto them who watch over that soul as they who must give an account. We will admonish him of the error of his ways. We will bear with him for a season. But if then he repent not, he hath no more place among us. We have delivered our own souls." Every minister and every member has promised at the altar of the Church to be "cheerfully governed by the rules of the Methodist Episcopal Church." Perhaps that is the reason the rules remain unchanged until this day.

Right of Trial

5. "The General Conference shall not do away the privileges of our ministers or preachers of trial by a committee, and of an appeal; neither shall they do away the privileges of our members of trial before a committee, and of an appeal." As can be plainly seen, this rule protects every preacher and every member in the right to membership in an Annual Conference and in the local church. For this reason it has been called the *Magna Charta* of Methodism. A person is not liable to prize such a privilege highly unless driven

to defend his rights in the Church. If there were no such constitutional right, it is easy to see how a dominant faction, having secured a majority in a General Conference might enact legislation that would force loyal ministers and loyal members out of the Church, without the formality of a trial, or the opportunity of an appeal.

Profits of Book Concern

6. "The General Conference shall not appropriate the produce (profits) of the Book Concern, nor of the Chartered Fund, to any purpose other than for the benefit of traveling, supernumerary, superannuated, and worn-out preachers, their wives, widows, and children." At that early day it was easy to foresee that The Book Concern was destined to be a mighty business and a profitable enterprise to the Church. Would the preachers leave it so that a bare majority of the General Conference could spend the proceeds of the Church's publishing establishment for their own pleasure or at their own discretion? They must do that or put in a restrictive rule covering the case. As a result the profits are annually distributed to the Annual Conferences as dividends. This

encourages preachers and people to patronize The Book Concern. By a wise action of the General Conference these dividends are used to support those who are claimants on the Conferences.

THE PROVISO

Provided, Nevertheless, that upon the joint recommendation of all the Annual Conferences, then a majority of two thirds of the General Conferences succeeding shall suffice to alter any of the above restrictions.

The proviso was, of course, a part of the Constitution and could not be changed except by the same process as the Restrictive Rules. As there has been some dispute over this, it is important for us to explain why it is so. It will be readily seen that if the proviso could be changed by a majority vote of delegates to any General Conference, then it would be possible for them to so change it as to change the constitutional feature of *every Restrictive Rule*. It is thus seen to be an absurdity. The proviso has been changed, but it was changed by the constitutional process.

In civil government there are two kinds of laws: there are *constitutional* laws and there are *statutory* laws. Constitutional laws are those enacted by all entitled to the elective

franchise at the time of the adoption of the constitution. The constitution is in its very nature a foundation substratum of principles upon which the civil structure is to rest; it is the enunciation of a bill of rights, defining the rights of the people to their own lives, to their property, and to the peaceable and orderly pursuit of happiness.

Congresses, Legislatures, and courts of justice are *established by the constitutions* of civil and political society. Legislative bodies and judicial bodies do not *create* constitutions; the constitutions and the people back of the constitutions create *them.* It is the duty of legislative bodies to enact statutes in harmony with the constitution and for the purpose of strengthening the features of that instrument. It is the duty of supreme courts of justice to decide on the constitutionality of statutory legislation. If, through ignorance or from any motive whatever, a legislative body has enacted laws out of harmony with the provisions of the constitution, the Supreme Court of the nation or of the State may at any time declare such laws null and void. Courts have no right to go back of the constitution in such a way as to read their

own prejudices or their own notions into the law.

So in the Church. The Constitution declares what are the legislative bodies of the Church, the process of judicial administration and the administrative or executive departments of its government. The Constitution is not all written. Enough is written to show the principles of the Constitution. There are some things naturally implied in addition to what is written. Common sense is presupposed in all these matters, and without it we would be the victims of many an absurdity. The General Conference has full power to legislate for the Church, so long as its legislation does not conflict with the letter and the intent of the Constitution. "Thus far shalt thou go, and no farther," says the Constitution to the General Conference.

There is a large and fruitful field of statutory legislation that General Conferences may indulge in. Any legislation that is calculated to strengthen the union of the connection, or to promote real godliness and righteousness among the people is in order without any fear of *conflicting* with the Constitution. Unfortunately, we have nothing that corresponds to

a supreme court in our Church. The General Conference itself is the judge of the legality of its own acts. It passes on the constitutionality of legislation by a judicature of its own. It may be freely said to the credit and honor of the men who have represented Annual Conferences in that more powerful Conference, that they have uniformly respected the Constitution, when they had light on the subject. It would be passing strange if some unconstitutional legislation has not been unwittingly indulged in. But such legislation is really without weight, and should be challenged and changed.

The underlying principles of our legislative procedure are clearly set forth by Bishop McKendree in his address to the Annual Conferences during the quadrennium of 1820-1824. The occasion of this address was the agitation over an elective presiding eldership. At the General Conference of 1820 resolutions were passed authorizing the election of presiding elders by the Annual Conferences. Joshua Soule was strongly opposed to this action and contended that it was in violation of the Third Restrictive Rule, in that it destroyed the plan of episcopal administration. At that Con-

ference he was elected to the episcopacy. His election, however, occurred before the passage of the resolutions. After the resolutions had been adopted he declared that he could not consistently administer the office of bishop under the conditions imposed by the General Conference. Before the Conference adjourned, a motion prevailed to suspend the operation of the resolutions for another quadrennium. During the four years from 1820 to 1824 Bishop McKendree presented the matter to each of the Annual Conferences for its judgment as to the constitutionality of the plan for an elective presiding eldership. His address on this occasion has been described as "one of the most important documents of our constitutional history." It concludes with these strong words, the weight of which should not be lost: "From the preachers *collectively* both the General Conference and general superintendents derive their powers; and to the Annual Conferences jointly is reserved the power of recommending a change in our Constitution. . . . With your recommendation and instructions, your representatives in the General Conference may act as they may judge most for the glory of God and the good of his Church. Thus

introduced, the case would commend and establish the Constitution, and form an effectual barrier against any future infringement of the bulwark of our rights and liberties. This advice flows neither from the fear of frowns nor a desire of ease, honor, or profit. Let me be anything or nothing in these respects, so the work of the Lord may prosper." Here are a fact and a principle that are seldom emphasized in these later days. Does the Church need to be called back to first principles? At any rate, a discussion of the principles on which our polity rests cannot but have a wholesome effect.

CHAPTER IV

Changes from 1832 to 1900

From 1808 until 1832, by the terms of the proviso, the Constitution could not be changed except by a majority vote of *all* the Annual Conferences. The failure of only one Conference to approve would defeat any reform. The principle involved in it was this: The delegated General Conference is made possible only by the mutual agreement and the mutual concession of all the Annual Conferences. These concessions are made to the general welfare, and in the interest of the connection on the basis of the Constitution as adopted by the General Conference of 1808. Hence the terms of that mutual agreement—the Constitution—must not be broken without the consent of all the parties to the agreement.

On some points not definitely specified in the Constitution there were differences of opinion as to what was intended by the General Conference of 1808. The presiding-elder question is an illustration of this. Had the

General Conference a right to enact legislation authorizing the election of presiding elders by the Annual Conferences? Upon that point there has always been an honest difference of opinion. Before the adoption of the Constitution for a delegated General Conference the issue of an elective presiding eldership was discussed for two days, and the decision was against that proposition by a vote of seventy-three to fifty-two. There was a long struggle, stubbornly contested, before a majority of votes could be secured for the Constitution. This was made possible only by a spirit of concession and compromise on minor points. When it was finally adopted all parties seemed to be satisfied. But what was done with the presiding eldership? Was it made appointive by the bishops, or was it left optional with the General Conference? About that issue the battle was destined to rage for twenty years. Some of the ablest, and purest, and most useful of the founders of Methodism differed widely on that subject. It was the live issue at the General Conference of 1812, at that of 1816, that of 1820, and at that of 1824. It was finally disposed of at the Conference of 1828, and the issue of African slavery began

to gather like a dark cloud upon the horizon. This much may be said: If the General Conference had no constitutional right to *pass* such a law, then it must follow that no one had the legal right to introduce a resolution looking toward that end. If it was right to introduce and discuss such a resolution at a General Conference, the General Conference had the right to enact the legislation, and it would be the plain duty of the bishops to abide by it. So far as we have been able to discover, there was no effort made to amend the Constitution by those who favored the election of presiding elders. It is probable that the General Conference of 1820 or that of 1824 could have secured the requisite two-thirds vote to submit an amendment to the Annual Conferences. That would have removed the offense in the way of Joshua Soule and William McKendree. A well-organized campaign could have carried the measure through the Annual Conferences first and then into the General Conference. Such an agitation would have had an educative effect, and would have cleared up the principles involved in the discussion.

A difficulty existed at that time which was

removed by a change in the proviso of the Constitution, which change was brought about in 1832. This brings us to the first amendment to the Constitution. In regard to the *occasion* of it, Bishop W. L. Harris has this to say: "It came to pass that on account of the growth of the Church and the large increase of her ministers, the General Conference had become so large a body as to render a change in the ratio of representation very desirable, if not necessary. A single Conference threw itself squarely against the proposed change and defeated it, though every other Conference of the Church favored it; whereupon a measure was set on foot to alter the Constitution itself, so that changes in that instrument might be carried by *three fourths* of the aggregate vote of all the members of the several Annual Conferences present and voting thereon, rather than by the concurrent vote of a majority of each and every Annual Conference. This alteration was consummated in 1832, so that now changes in the organic law are much more easily accomplished than when the delegated General Conference was first constituted. When making this change, however, another change was also made by

which the Articles of Religion became absolutely unchangeable by any action whatsoever of the General Conference or the Annual Conferences, whether taken separately or concurrently, thus giving the attribute of immutable stability to our doctrinal foundations." We find it impossible to agree with Bishop Harris in his reference to the doctrines of the Church. That the First Restrictive Rule has reference to more than our Articles of Religion is plain from the words, "Our present existing and established standards of doctrine." If the Articles of Religion had been the only standards of doctrine, nothing else would have been mentioned. It is equally plain that in exempting the First Restrictive Rule from the amended proviso, it was left under the operation of the old proviso passed in 1808. The proviso as amended in 1832 reads as follows:

Provided, Nevertheless, that upon the concurrent recommendation of three fourths of all the members of the several Annual Conferences who shall be present and vote on such recommendation, then a majority of two thirds of the General Conference succeeding shall suffice to alter any of the above Restrictions, excepting the First Article; and also, whenever such alteration or alterations shall have been first recommended by a two-thirds vote of the General Conference, so soon as the three fourths of the members of all the Annual

Conferences shall have concurred as aforesaid, such alteration or alterations shall take effect.

The constitutional change was more radical and fundamental than appears on the surface. The proviso of 1808 recognized the *integrity* and the autonomy of the *Annual Conference.* It guaranteed the right of every Annual Conference to all the benefits of the Constitution, and made it plain that no power outside of the Annual Conference could deprive it of its rights and privileges under the Constitution. The relation of the individual Conference to the General Conference was similar to the relation of the individual States to the federal government under the Constitution. Before the federal Constitution can be amended the Legislatures of three fourths of the States of the Union must ratify such amendment. Our connectional government is the result of a union of *Annual Conferences,* under a uniform system of laws. It would have been better if the proviso of 1832 had permitted an amendment to be adopted upon the approval of three fourths of the Annual Conferences, instead of three fourths of the members of the several Annual Conferences. However, the change was made in the constitutional way, and must

stand as the law of the Church until the Constitution is amended.

From time to time amendments have been enacted to increase the ratio of representation in the General Conference, and thus decrease the number of delegates. In 1868 an amendment prevailed to admit laymen to the General Conference, two from the territory of each Annual Conference. In 1896 this was again changed to allow of an equal number of lay delegates with the ministerial delegates from each Annual Conference.

In 1900 the General Conference took action in regard to the Constitution that was a radical departure from the method of former years. It took the initiatory steps toward the adoption of a new Constitution. It was adopted by that General Conference by a vote of five hundred and forty-two to ninety-four, which showed there was an overwhelming vote in its favor. It was adopted in the Annual Conferences by a vote of more than three fourths of the preachers. It had been felt for a long time that the parts of the Discipline that belonged to the Constitution should be put together and described so they could be identified as belonging in the Constitution.

But the General Conference could have authorized the bishops or some competent committee to do that without introducing new matter into the Constitution in such a blind fashion. The proviso at that time authorized amendments to the Restrictive Rules *only.* This General Conference of 1900 assumed to propose to the Church a Constitution that embodied all of the old Constitution but added *many new features,* that could not be considered amendments to the Restrictive Rules. Many of those features are good, but they should have been introduced separately, so as to secure the individual judgment of the Church as to their particular merits. The proviso was again changed. In the "New" Constitution it is so worded that it requires two thirds of the members of the Annual Conferences and Lay Electoral Conferences present and voting, and two thirds of the succeeding General Conference, to change or amend the Constitution. However, the Constitution of the Church, as we now have it, is the Constitution as adopted by the General Conference of 1900 and by the members of the several Annual Conferences during the year 1901. Bishop S. M. Merrill, one of the clearest

writers on church law of recent years, said in reference to this proposed new Constitution that it was objectionable in some respects, but that it was a gain in other respects. Taken as a whole, he favored the plan. It was certainly a great advance, and an advantage in every way to have the Constitution all in one division of the Discipline, and in such shape that no one can misunderstand it.

CHAPTER V

No Safeguard

This much is clear: *we have a Constitution.* The Constitution defines the limits of authority beyond which the General Conference, our chief law-making body, is not permitted to go. Bishop Harris says: "But for the rights conferred by this Constitution those quadrennial gatherings of ministers and laymen would not have been General Conferences of the Methodist Episcopal Church. The limitations and restrictions are part and parcel of the very law creating and empowering a delegated General Conference, and are, therefore, a constitutional law of binding force, sacred and inviolable. . . . The General Conference may work up to the boundaries of its powers, as defined in the limiting terms of the organic law, but it may go no further. Here it is confronted by an impassable barrier to its authority, to overleap which would be usurpation and revolution." Note those words of

this great constitutional lawyer—*"usurpation* and *revolution."*

What guarantee have the ministers and members of the Methodist Episcopal Church that the delegates who go to represent them in the General Conference will keep within the bounds of the Constitution? What security has the Church against the "usurpation and revolution" spoken of by Bishop Harris in his little book on The Episcopacy and the General Conference, a book that used to be in the Conference Course of Study? If the Constitution is of importance, then it must be of importance to have it observed and preserved. So far as the Constitution shows, there is no restraining power over the General Conference to prevent it from violating the Constitution which is the source of its own authority for being. As a body it is made up of Christian ministers and laymen, who may safely be presumed to have the interest of the Church at heart. But that would be the case if there were no Constitution at all. We have a Constitution and laws for the government of the Church because it is not safe to trust strangers to do the wise and the right thing without restraint of law. The

doctrine is heralded abroad that the General Conference is the sole judge of its own acts; that it is the supreme legislative, judicial, and executive authority of the Church—in brief, that it is a law unto itself.

If that is true—and who can deny it?—then it must follow that the Great Conference of the Church is really an irresponsible body. The delegates are not usually instructed as to the wishes of the Conference they represent; they seldom or never report back to the Conference that sent them as to how or why they voted on any measure. History has often demonstrated, and a close knowledge of human nature confirms the conclusion, that it is not safe to presume too much on the wisdom or the goodness of people who have grave responsibilities. There are plenty of people in the world who will do wrong when they are watched and must give account of themselves. There is a vastly greater multitude who will do wrong when they are *not* watched and do *not* have to give account. It does not require any demonstration to prove that proposition; it is a matter of common observation and goes with the saying. From that cause the Church has suffered more than from any other, and

at that point the remedy must be applied, if there is to be any remedy for the ills of the Church.

> For every evil under the sun
> There is a remedy or there is none.
> If there is one, try to find it;
> If there is none, never mind it.

When the founders of the Methodist Episcopal Church framed and adopted a Constitution for the Church, they did not claim that their work was perfect. In fact, they distinctly allowed that their work was not perfect. If they had considered it perfect, they would have made no provision for its amendment. The fact that they made provision for the orderly and legal amendment of their work proves that they expected wiser hands than theirs to work at it in later years. So of the Constitution as we now have it: It is not perfect. The framers of it did not think it was perfect when they framed it. It is even possible and probable that no one who voted for its adoption thought of it then, or thinks of it now, as having attained perfection. They made provision for amendments to the Constitution. They knew it was not perfect, and we know it is not perfect. It is

presumed that they of former days did the best they knew. It is for us who follow on to do our best to complete the work they began. We should earnestly and with a conservative spirit set about discovering the weak spots in the Constitution, then find a remedy and apply it. There is nothing heretical or sacrilegious in criticising the Constitution of the Church, so long as it is done in the proper spirit and with the right end in view. If the criticism aims to correct a fault, and proceeds in the regularly authorized manner for the correction of the fault, it is commendable and should be encouraged.

We can prove beyond the possibility of cavil or of doubt that the one outstanding and fatal weakness of the Constitution of our Church lies in the fact that there is in it no effective means of safeguarding the Constitution itself. A majority vote can at any time pass legislation that will nullify some feature of the Constitution. Consider for a moment the clumsy and ridiculous method that has been in vogue for many years to determine the constitutionality of General Conference enactments. A Committee on Judiciary is authorized at each General Conference. It is usually a small

committee, one representative from each General Conference District. This committee is composed of delegates to the Conference. They organize at the opening of Conference and disband at its close. They are answerable to no one for what they *do* or *do not.* If the Conference cares to do so, it can instruct the committee as to its wishes, but, as a rule, it follows its own methods. If a member of the General Conference raises the question of constitutionality in regard to any *past* or *proposed* legislation, the matter may, if a majority so desire, be referred to the Committee on Judiciary for its opinion. If less than a majority are of the opinion that the Constitution is about to be violated, they may continue to hold their opinion, but there is no way to get a decision on the matter. If the matter is referred to the committee, the Conference is free to accept or reject the report of the committee. Of course, if that course is taken, greater attention is called to the matter and good is sometimes done. There is no way to prove such a matter, except as actual tests are applied, but the presumption is that a majority of every General Conference has been favorable to the Constitution whenever the issue was clearly

drawn. If any delegate points out that a proposed course of legislation is in plain violation of the Constitution, it is impossible to secure its passage. Never yet has there been a General Conference that has purposely and intentionally overridden the Restrictive Rules or any other feature of the Constitution. The Committee on Judiciary has often served a good purpose and been the means of arresting bad legislation. Any delegate can move the reference of any question to the committee for its judgment. The mere raising of the question calls the attention of the Conference to the issue and induces caution upon the part of the delegates. The time of the committee is for the most part taken up with the consideration of appeals from the Annual Conferences and the Judicial Conferences.

There are many far-reaching principles involved in the Constitution of the Methodist Episcopal Church. Its truths and their application do not all lie on the surface. There are backlying facts and underlying logical conclusions that are vital and essential to the preservation of the Constitution, and to the upholding of the purity and the vigor of the Church. Among the hundreds of ministerial

and lay delegates who attend a General Conference there are only a comparatively few who have studied deeply into the meaning of the Constitution of the Church. For this reason it is always possible for designing spirits to take advantage of their lack of information, and so manipulate speeches as to rush through legislation that subverts the Constitution of the Church.

The General Conference is authorized and created by the Constitution of the Church, and it cannot possibly exist without such authorization. It is a clear case that the supreme legislative body of the Church should respect the instrument that creates it and that defines its authority. But a General Conference of *delegates* temporarily assembled from all parts of the Church is not wisely constituted to pass judgment on constitutional questions. There are several reasons for this: 1. They are not responsible for their decisions to anyone. After meeting for a short time, they scatter to their various Conferences and churches. No one knows their reasons for a decision on any question. They answer to no one for what they have done, and none of them may ever be returned to General Con-

ference. It is plain that the decision of such momentous issues should be in the hands of men who are known to the Church and are responsible for the decisions they make. 2. They have only a slight acquaintance with each other. Those who are members of the same Annual Conference are fairly well acquainted with each other, but aside from that they are comparative strangers. They cannot possibly choose the wisest and purest to act on a Committee of Judiciary to decide questions of the gravest concern to the whole Church. 3. The body is too large and too unwieldy to be intrusted with the sole and the final decision of issues that require such delicate and precise judgment. Be it understood and remembered that this whole matter is in the hands of the entire General Conference. There is no legislation requiring a Committee on Judiciary. Such a committee is constituted by each Conference, and the rules of its procedure are decided upon by the Conference or by the committee. The committee might all be as wise and as learned as justices of the Supreme Court of the United States, and as holy as the apostles, nevertheless it remains that they, with the Conference that creates

the committee, are a law unto themselves. The alternative remains that they may not be wise, nor learned, nor holy.

The Constitution says: "The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions." Then follow the Six Restrictive Rules. The expression "full power" has been stretched for all there is in it—and more. When taken too literally, it kills and destroys. The spirit gives life, and the spirit in this case is the spirit of common sense. It has been interpreted to mean that the General Conference embodies within itself, while in session, all *executive, legislative,* and *judicial* powers. That idea has been carried so far that our general superintendents as executive officers, and the Annual Conferences, as represented, are almost entirely lost sight of. It is high time for sober judgment to call a halt on such extravagance. As a matter of fact, the original authors of that clause were matter-of-fact men who used their common sense. The meaning they put into it is still there, and nothing else is there. What has been read into it by later eyes does not belong there. 1. It is plain

they did not intend to dethrone the episcopacy during the sessions of a General Conference. They expected the bishops to enforce all that part of the Discipline that related to the powers and limitations of the General Conference. They would never have consented to a delegated General Conference on any other basis. 2. They—the preachers who made up the Annual Conferences—did not intend to surrender any of their original power to a *delegated* body. They expected the General Conference to respect their wishes and be responsive to their will. A river is given full power to carry boats upon its surface and to furnish power to run sawmills and gristmills along its course; but it goes with the saying, by common sense, that the aforesaid river must keep within its banks in order to carry out its grant of power.

CHAPTER VI

Attempts at Reform

The inconsistency and the peril of such a situation was seen in the formative period of the Church's history, but it was difficult and seemingly impossible to find a solution. As we have seen, the General Conference of 1808, which legislated our delegated General Conference into existence and framed the original written Constitution, was quite evenly divided on the issues raised by the Restrictive Rules. It was only after a long, hard struggle and some concessions by way of compromise, that a majority could be secured to favor a delegated General Conference on any basis. The Annual Conferences were exceedingly jealous for the purity of the Church. They feared lest the system of doctrine and the firmness of discipline would be impaired and ruined if their power were transferred to delegates. They framed a Constitution that was a marvel of strength. It was an ironclad man-of-war, bolted and riveted securely against damage

from every foe. The Wesleyan doctrines were secured, the Wesleyan system of episcopal supervision was safeguarded; the General Rules for the moral government were fortified; the ratio of membership, the funds of the Book Concern, and the rights of ministers and members to trial and appeal were preserved. Moreover, the provision for amending the Constitution was such that it could not be changed in any feature until every Annual Conference should consent to the change. They thus recognized the right of the individual Annual Conference to an unimpaired inheritance of the things described and contained in the Constitution. They were wise master-builders. They laid the foundations broad and deep and solid. They were thinking of the needs of the entire country; they were planning for generations yet unborn. They had at once the historic and the prophetic perspective. They felt in their souls and enacted into the fundamental law of the Church of God what we of a less serious age often express as poetic sentiment:

> We are living, we are dwelling
> In a grand and awful time.
> In an age on ages telling,
> To be living is sublime.

There was one defect in the Constitution of 1808: it failed to define the powers and prerogatives of the episcopacy in relation to the General Conference. It said, "One of the general superintendents shall preside in the General Conference; but in case no general superintendent be present, the General Conference shall choose a president *pro tempore*." It did not state whether the president had any power to object to legislation in conflict with the Constitution. Did it consider that such power belonged naturally with the office of general superintendent? We do not know. It is more than likely it did. At any rate, it was a serious oversight to neglect making it plain. In any event, Bishop McKendree did vigorously protest against the legislation of 1820, whereby the presiding elders were made elective by the Annual Conferences. Joshua Soule agreed with Bishop McKendree that the Constitution had been violated. Both McKendree and Soule were members of the General Conference of 1808 and on the subcommittee that drafted the first Constitution. They evidently believed that general superintendents should guard the Constitution against infraction during the sessions of a General Conference. But

others equally eminent for piety and wisdom did not agree with them on that point.

To remedy this apparent weakness in the Constitution, it was proposed by the General Conference of 1820, and also that of 1824, to amend that instrument by giving the episcopacy of the Church a qualified veto power over legislation. The Journal of the General Conference of 1820 shows that on May 27 a resolution on the veto power of bishops was presented by Stephen G. Roszel and J. B. Finley. The wording of the resolution was as follows:

Whereas, A difference has arisen in the General Conference about the constitutionality of a certain resolution passed concerning the appointment of presiding elders; and,

Whereas, There does not appear to be any proper tribunal to judge of and determine such a question; and,

Whereas, It appears important to us that some course should be taken to determine this business; therefore,

Resolved, That we will advise, and hereby do advise, the several Annual Conferences to pass such resolutions as will enable the next General Conference so to alter the Constitution that whenever a resolution or motion which goes to alter any part of our Discipline is passed by the General Conference it shall be examined by the superintendent or superintendents; and if they, or a majority of them, shall judge it unconstitutional, they shall, within three days after its passage, return it to the Conference with their objections to it in writing. And whenever it is so returned the Conference shall

reconsider it; and if it pass by a majority of two thirds, it shall be constitutional and pass into a law, notwithstanding the objections of the superintendents; and if it be not returned within three days, it shall be considered as not objected to and become a law.

In commenting on this proposition, Dr. J. M. Buckley says: "The preamble assumes that 'there does not appear to be any proper tribunal to judge of and determine such a question.' That assumption includes the episcopacy as not being a 'proper tribunal,' and, further, that the Annual Conferences do not constitute one. And it assumes also that the General Conference is not a 'proper tribunal.' The first and second assumptions are correct; but, right or wrong, wise or unwise, the General Conference was and is the only body to judge authoritatively constitutional questions, all powers having been given to it which are not by Restrictive Rules taken from it" (Constitutional and Parliamentary History of the Methodist Episcopal Church, p. 349).

In view of all the facts, and upon a careful reading of the preamble, it would be more nearly correct to say that there was an honest difference of opinion in that General Conference of 1820 as to the constitutionality of the

law (recently passed) requiring the election of presiding elders, and also that, generally speaking, there was confusion and uncertainty of opinion as to the location of authority to decide on the constitutionality of legislation. They did not say that the episcopacy had no authority to decide in such matters. They did not say the Annual Conferences do not constitute a "proper tribunal" on the Constitution. They made no claim for or against the General Conference as such a tribunal. They knew what we know, that the Annual Conferences assembled in the General Conference of 1808 gave to the delegated General Conference "full power" to make rules and regulations for the Church with the exception of the matters and things referred to and described in the Six Restrictive Rules, which matters and things they reserved to themselves. It is an approved canon of legal interpretation that laws are to be interpreted in the light of the intent of the lawmakers, where this can be determined, and also that the language of law is to be taken in its common acceptation.

As a matter of fact and of record, Bishop McKendree, as representing the rights of the episcopacy, actually did publicly and before

the assembled General Conference protest against the legislation of the General Conference of 1820, and no one challenged his right to protest. There were plenty of men there who were not afraid to do so, if they had been convinced that the venerable bishop was in the wrong. As a matter of fact and of record he took the "suspended resolutions" relating to the election of presiding elders, to all the Annual Conferences between 1820 and 1824, to get their judgment as to the constitutionality of these disturbing resolutions. No one questioned his right to do so. That the General Conference was then and is now the *only* body authorized to interpret the Constitution was not then nor is it now a settled question. It was then a question upon which grave and serious men differed in opinion. For that reason there was a desire to have the matter settled by an amendment to the Constitution which would clearly define the law.

The provision for amending the Constitution at that time required that every amendment should first pass the Annual Conferences and afterward be adopted by a two-thirds vote of the General Conference. It was changed in 1832 so that amendments could originate in

the General Conference or in an Annual Conference. The reader will observe the wording of the resolution that passed the Conference of 1820: "That we will *advise,* and hereby do *advise,* the several Annual Conferences."

Dr. John J. Tigert, afterward bishop of the Methodist Episcopal Church, South, comments on this proposition as follows: "This measure provided, not merely a method by which the bishops might carry an appeal from the decisions of a General Conference to a tribunal of the Annual Conferences—which really lodges the veto power in the body of traveling ministry—but, in the strictest sense, clothed the episcopacy with a veto power, which required a two-thirds majority of the General Conference to overcome it" (Constitutional History of American Methodism).

Upon this proposition Bishop T. B. Neely makes the following comment: "The proposal in the General Conference of 1820 to give a formal veto power to the bishops bears so striking a resemblance to the article in the Constitution of the United States which gives the veto power to the President, that we must conclude that the form was based upon that article, as though it were thought that if the

President could be intrusted with the power of veto, the bishops of the Methodist Episcopal Church should be formally intrusted with similar power. The proposition recognizing the right of veto in the bishops was adopted by the General Conference and sent down to the Annual Conferences, but there appears to be no record as to what the Annual Conferences did or did not do in regard to this important matter that was submitted to them. Perhaps they thought it unnecessary to do so, since bishops had actually pronounced on the unconstitutionality of an act of that General Conference, and the General Conference had then suspended the act" (The Bishops and the Supervisional System of the Methodist Episcopal Church, p. 235).

Dr. Tigert's comment shows that he did not carefully consider the provisions of this proposition. It says nothing whatever about a "method by which the bishops might carry an appeal from the decisions of a General Conference to a tribunal of the Annual Conferences"; but he is strictly correct in saying that it "clothed the episcopacy with a veto power, which required a two-thirds majority of the General Conference to overcome it."

The reason Bishop Neely gives for the failure of this measure to pass the Annual Conferences does not seem to be well founded. It is true that Bishop McKendree, representing the authority of the episcopacy as he understood it, did object to legislation by the General Conference, and because of his vigorous objection the same General Conference *suspended* the resolutions it had previously adopted. The circumstances, however, under which this was done were unusual, and there was serious difference of opinion as to the ground of authority upon which the good bishop proceeded.

Dr. Buckley suggests another reason to account for the failure of this proposition to be enacted into law. He says: "As the General Conference was nearly equally divided on the presiding elder question, and this proposal was a fruit of that contention, it is certain that the Annual Conferences which favored the election of presiding elders would vote against the veto power to the bishops, or ignore the subject entirely." It is certain that three of the largest Conferences were strongly in favor of the election of presiding elders; if they had doubts about the constitutionality of

their pet measure, they would naturally hesitate to give bishops the veto power over legislation, especially if they knew the bishops in office to be of contrary opinion. The vote on the proposition to elect presiding elders upon nomination of the presiding bishop was sixty-one in favor and twenty-five against. It is to be presumed that those who favored the resolution were honest in their conviction that the General Conference had a constitutional right to pass such legislation. If the amendment giving the veto power to bishops had been a law at that time, it would not have prevented the passage of the proposed law. Under its operation there would have been no exercise of veto power, as Bishops Roberts and George did not consider the measure an infraction of the Constitution, and Bishop McKendree would have been in the minority. If the bishops had all exercised the veto against it, there were enough to carry the measure over their veto, as more than two thirds favored it. To carry an amendment at that time required a majority vote of each and every Annual Conference. This measure, to create a legal veto power to be exercised by the episcopacy, was a reform measure of the first

magnitude. It always requires aggressive agitation to cause a reform measure to prevail, and it is more than likely that this measure had lukewarm treatment in some of the Conferences. To fail of passage in one Conference would defeat the measure. No doubt it would have become a law if our present method of amendment had been in vogue.

It is highly probable that the form of this rejected amendment was suggested by Article 1, Section 7, of the Constitution of the United States, as Bishop Neely suggests. The analogy is as close as could be, allowing for the difference of organization. The President is not a member of our national legislative assembly, but is an executive, administrative officer, chosen by the people of all sections. He is given a negative vote by the way of the veto power, when he can give reasons to show that any measure would work harm or injustice to the country. Congress may pass any measure over the veto of the President by a two-thirds majority. This places additional power and responsibility on the Presidency, but its tendency is to cause greater caution in the passage of legislation.

The episcopacy of our Church corresponds

to the Presidency of our federal government. Our bishops are the chief executive officers of the Church. Their duties are administrative for the most part. They are not chosen by any one Annual Conference, but by the assembled representatives of all the Conferences. Upon elevation to the episcopacy a bishop becomes *ex-officio* related to all Annual Conferences. They are bishops in office during the great quadrennial legislative assembly of the Church. It would naturally suggest itself to the Church that they should be active participants in the legislative proceedings. That they should be required to scrutinize every piece of legislation and every resolution, to see if it fits in with the Constitution of the Church, would add greatly to their duties, but it would insure carefulness in the enactment of laws. The provision that the General Conference could carry a measure over the veto of the episcopacy by a two-thirds vote was a sufficient safety valve against arbitrary vetoes or vetoes that were not carefully reasoned out. Bishops might be in the wrong or they might not be sufficiently responsive to the enlightened progressive sentiment of the Church. The method proposed was simple, ex-

peditious, and effective enough to produce wholesome conservative results. It is difficult to see how any reasonable objection could be offered against it. It might have been improved by having some provision to call out the opinion of the episcopacy before a measure was entertained by the Conference or before it should come to vote.

Interest in the matter, however, did not die. The contest for the veto power of bishops was renewed at the General Conference of 1824. It was presented in the following form:

Resolved, That whenever the delegated General Conference shall pass any rule or rules which, in the judgment of the bishops, or a majority of them, are contrary to or an infringement upon the above "limitations and restrictions" or any of them, such rule or rules being returned within three days after their passage, together with the objections of the bishops to them, in writing, the Conference shall reconsider such rule or rules, and if, upon reconsideration, they shall pass by a majority of two thirds of the members present, they shall be considered as rules, and go into immediate effect; but in case a less majority shall differ from the opinion of the bishops, and they continue to sustain their objections, the rule or rules objected to shall be laid before the Annual Conferences, in which case the decision of a majority of all the members of the Annual Conferences present when the vote shall be taken shall be final.

The essential difference between this and

the amendment recommended by the Conference of 1820 consists in the feature that provides for the contested rule being sent to the Annual Conferences for approval or rejection. Theoretically, the Annual Conferences had a right to be consulted in matters pertaining to the interpretation of the Constitution of the Church, but the practical difficulties in the way of accomplishing it would make it a tedious and cumbersome process. The chief end and aim of a law giving the veto power to the episcopacy is to cause greater caution and deliberation in the passage of laws by a General Conference. The great danger to the Church, from a body composed as our General Conferences are, is that it will enact legislation hastily and unadvisedly. This danger could be avoided by having the two-thirds rule without the tedious and cumbersome process of reference to the Annual Conferences.

Another difference between this proposal of 1824 and that of 1820 is that the veto power was to be exercised only in reference to infringements upon the Restrictive Rules. The legislation of 1808 that provided for the organization of the General Conference was not

recognized as a part of the Constitution, or else it was looked upon as having minor importance. As a matter of fact, the Restrictive Rules were universally recognized as the essential part of our fundamental law, and there have always been differences of opinion as to what else was in the Constitution. Our present Constitution is so worded that there can be no difference of opinion on that point.

The General Conference of 1824 was by no means a unit in regard to the wisdom of this amendment. The Journal shows that the vote was taken on the 21st of May. "The question was taken on the resolution, when it was sustained, sixty-four voting in the affirmative and fifty-eight in the negative." A change of three votes and the resolution would have failed to get a majority. We do not know the reasons advanced by the minority for their opposition. It is more than likely they considered themselves as competent to construe the Constitution as any bishop, and did not care to place so much power in the hands of bishops. It is barely possible that there was some favorite measure they were more anxious about immediately than to safeguard the

Constitution against possible encroachment. Many strong and valiant men in those days believed it was a rank injustice that they were not allowed to select their own presiding elders. They believed that such legislation as they wanted could be enacted without "destroying the plan of our general superintendency." They knew some of the Conferences would not approve of their idea, and they knew that McKendree and Soule believed that such legislation would violate the Constitution. For such reasons they probably withheld approval from this plan for episcopal veto. At any rate, it was doomed to failure at the hands of the Annual Conferences. As formerly stated, it would only require the adverse vote of one Annual Conference to send it to its doom. The Journal of the General Conference of 1828 makes no reference to it.

Whatever the cause, it was unfortunate that one of these did not pass into law. There was need of episcopal veto power to strengthen the government of the Church at its weakest point. Upon the shoulders of the bishops rested the responsibility of enforcing and administering the laws of the Church. Before the bar of

public opinion they were responsible for the success or failure of the denomination. It stands to reason that they should be given power to prevent or restrain the General Conference from passing laws calculated to undermine the Constitution of the Church and subvert our whole system of government.

Bishops are human. They have their faults and their limitations the same as other men. They may be learned in some matters and ignorant in other matters. They may be intellectual, poetical, scientific, and eloquent, but lacking in a broad knowledge of church law and in judicial poise of character. They may be ambitious for power, covetous for gain, or cowardly in the presence of danger. These intellectual and moral weaknesses would tend to disqualify them for passing judgment on the constitutionality of legislation at a General Conference. But, on the other hand, it should be noted that these qualities are no more likely to exist in bishops than in delegates to General Conference, all of whom have to pass judgment on those very matters. The characters of bishops are more carefully inspected than other characters before their elevation to the high office, and it is reasonable to

suppose that they are as well qualified to pass judgment on constitutional questions as any class of men. The fact of their being required to pass judgment on such questions would stimulate them to more careful study of the principles involved in our constitutional law.

CHAPTER VII

Veto Power in the Methodist Episcopal Church, South

In the year 1844 there was a division in the Methodist Episcopal Church. It arose over the issue of slavery. The delegates from the Southern Conferences to the General Conference of that year were naturally in more or less sympathy with the institution of slavery. The delegates from the Northern Conferences were quite generally possessed of anti-slavery sentiments. The feeling between the sections had become so acute and the situation so intense that it was inevitable that a division of organization would result sooner or later. A "Plan of Separation" was decided upon which, of course, was a compromise with the law of the Church. There was no possible provision whereby delegates to a General Conference could dismember the body of the Church. A practical situation had arisen that necessitated a line of action that was not contemplated by the framers of the Constitution.

The delegates did what men invariably do under such circumstances—they followed the line of practical wisdom, and let the Constitution look out for itself. The enabling act of the Constitution gave the General Conference "full power" to make rules and regulations for the Church, qualified only by the "Restrictive Rules." The delegates at the Conference of 1844 were inclined to utilize all the liberty implied in the word "full," taken in its most literal sense. After prolonged discussion, that was sometimes tinged with acrimony, it became evident to the great majority of delegates that something unprovided for in the Constitution must be done in order to give relief from the strain of agitation. It is only fair to presume that both sides to the controversy were anxious to preserve the integrity of the Church. The "Plan of Separation," as finally adopted with little opposition, was the nearest possible approach to regular, orderly, and constitutional "bisection of the Church," to use a mathematical phrase coined by Dr. Buckley. The "Plan of Separation" saved the sixteen Southern Conferences from the charge of secession. The plan was recognized and adopted by the General Conference, the chief legisla-

tive body of the Church. If there was anything wrong or irregular about it, the General Conference was the guilty party. Had not the General Conference "full power" to make rules and regulations for the Church? Certainly. If the Conference stretched its grant of power to the breaking point, it is only fair to say that something had to be done.

The Southern Conferences proceeded in a regular way to carry out the plan of procedure laid down by the General Conference of 1844, and through their regularly elected delegates held a General Conference in Petersburg, Virginia, in the year 1846. Joshua Soule, now sixty-five years old and the senior bishop of the Methodist Episcopal Church, was invited to become a bishop of the Southern organization and accepted the invitation. He it was who framed the Constitution that was first presented to the General Conference of 1808. Throughout his career he contended manfully for the rights of the episcopacy. No doubt, he, with Asbury and McKendree, formed the great triumvirate of constitutional expounders in those early days. It was always a favorite contention of Soule's that the Constitution of the Church should have a provision for the

veto power of bishops over legislation at the General Conference. He urged it upon the Methodist Episcopal Church, South. But he did not live to see his idea enacted into law. The old patriarch fell asleep in the year 1867, just after the din of civil war had ceased. Soon after his death their Constitution was changed by adding the following to its proviso for amending the Restrictive Rules:

> *Provided*, That when any rule or regulation is adopted by the General Conference, which, in the opinion of the bishops, is unconstitutional, the bishops may present to the Conference which passed said rule or regulation their objections thereto, with their reasons in writing; and if then the General Conference shall, by a two-thirds vote, adhere to its action on said rule or regulation, it shall then take the course prescribed for altering a Restrictive Rule, and if thus passed upon affirmatively, the bishops shall announce that such rule or regulation takes effect from that time.

As a form of veto it has some excellent features and some defects: First, it allows the bishops liberty to prevent legislation that is directly or indirectly in conflict with the Constitution. It is practically an absolute veto, as it is hardly conceivable that two thirds of a General Conference and three fourths of the members of the Annual Conferences would

differ in opinion on questions of fundamental law from the deliberate judgment of their bishops. This proviso virtually says, "When the bishops *say* that a law is unconstitutional, it *is* unconstitutional, and the Church must amend the Constitution to make it legal." Second, the bishops must give their opinion *in writing, with their reasons.* This insures deliberation and care in the preparation of the opinion, and it safeguards the Church from arbitrary *ex-cathedra* edicts, that might be tyrannical and oppressive.

It has some defects: First, it is left optional with the bishops to exercise the veto power, even when they consider legislation has violated the Constitution—they "may" present to the Conference. The law should be mandatory. Just as much harm would be accomplished by a violation of the Constitution, even if the bishops did not choose to oppose the action of a General Conference. Second, the law should make it plain that any bishop on the Board (or in the "College" of Bishops, as they say in the Southern Church) has the right to raise the question of law and compel the others to consider the issue. Two thirds of the bishops might be listless or indifferent as

to what was going on. One vigorous, wide-awake bishop might save the day, if it was clear that he had this right. Third, the process of carrying a measure over the veto of the bishops is too difficult and too cumbersome. To require a General Conference to secure a two-thirds vote to pass legislation over the veto and the printed objections of the bishops is a sufficient safeguard to insure caution, deliberation, and wisdom. Fourth, there is no provision for the question of constitutionality being raised on the floor of the Conference, and referred to the bishops for decision. There might be times when bishops would for some personal reason shrink from declaring their opinions. A respectable minority of a General Conference should have the right to force consideration of any question, and get a decision from the bishops.

It is said by those familiar with the history of the Methodist Episcopal Church, South, that the veto power of their bishops has been invoked only a few times. Perhaps it has not always been invoked when it should have been. It is natural to suppose that the provision for the exercise of such power would have a restraining influence. No doubt our sister Meth-

odism in the Southland has been spared much hasty and much unwise legislation on account of the good effect of this veto power. Her splendid progress in recent years is due to her conservatism in polity and doctrine. Her conservatism in things vital is due to her adhesion to the Constitution of the Church. This episcopal veto power gives the Southern Church an immense advantage over us.

In striking contrast with the conservative policy of our sister Methodism, behold the deplorable condition of our own Church. We have as good a Constitution as they, but we have no adequate provision for protecting it. As things are understood and practiced, *a bare majority* of delegates can at any time ignore and override the Constitution. Much bad legislation has been enacted and there is promise of more. The situation is serious, and calls mightily for a remedy. In the early days there were fearless bishops who assumed an authority that ought to be clearly defined, as we have seen. Bishop McKendree protested against the action of the General Conference of 1820, which passed a rule to take the *appointing* power of presiding elders from the episcopacy, giving bishops only authority to

nominate. He protested on the ground that the law was a violation of the Third Restrictive Rule, which said: "They shall not change or alter any part or rule of our government, so as to do away episcopacy, or destroy the plan of our itinerant general superintendency." It had surely been the "plan" for bishops to appoint the presiding elders. There was nothing written in the law, however, which made it clear and above question that Bishop McKendree had the right to say what he did in that memorable Conference.

As a matter of history Bishop Soule made two or three lengthy speeches at the General Conference of 1844 during the debate over the case of Bishop James O. Andrew. He claimed the right to speak, and did not ask permission of the Conference. He was protesting against the legality, the constitutionality, of a doctrine that was being advanced to the effect that bishops are merely officers of the General Conference and can be deposed by any General Conference for any cause. There was no written law stating that a bishop had the right to participate in the deliberations of a General Conference. He knew the traditions of the office and was convinced that the right to

speak on such matters was in the "plan." Not many bishops would have been so bold.

The argument used by Bishop Soule is worthy of reproduction here, for it has application in our times. He said in part: "I wish to say explicitly that if the superintendents are to be regarded only as officers of the General Conference of the Methodist Episcopal Church, and consequently, as officers of the Methodist Episcopal Church, liable to be deposed at will by a simple majority of this body, without a form of trial, no obligation existing growing out of the Constitution and laws of the Church, even to assign cause wherefore—I say, if this doctrine be a correct one, everything I have to say hereafter is powerless and falls to the ground. But brethren will permit me to say, strange as it may seem, although I have had the honor and the privilege to be a member of the General Conference of the Methodist Episcopal Church ever since its present organization, though I was honored with a seat in the convention of ministers which organized it, in this respect I have heard for the first time, either on the floor of this Conference, in an Annual Conference, or through the whole of the private membership,

this doctrine advanced; this is the first time I ever heard it. Of course, it struck me as a novelty. . . . Well, brethren, I had conceived, I had understood from the beginning that special provision was made for the trial of a bishop. The Constitution has provided that no preacher, no member, was to be deprived of the right of a trial, according to the forms of the Discipline, and of the right of appeal; but, sir, if I understand the doctrine advanced and vindicated, it is that you may depose a bishop without the form of trial; you may depose him without any obligation to show cause, and therefore he is the only minister in your Church who has no appeal. It seems to me that the Church has made special provision for the trial of the bishop, for the special reason that the bishop has no appeal. Well, now, sir, I make these observations, as I said, only to the ear of reason. You will remember that this whole thing is going out before the world as well as the Church. I wish to know my landmarks, to find out where I stand; for, indeed, I do not hesitate to say to you that if my standing and the relation in which I have been placed to the Methodist Episcopal Church under my solemn vows of

ordination, if my relation is to stand on the voice of a simple majority of this body, without a form of trial and without an obligation even to show me cause why I am deposed, I have some doubt whether there is a man on this floor that would be willing to stand in my place."

That the General Conference has the right to pass on the constitutionality of its own acts may not be successfully disputed. During the history of the Church the General Conference has upon many occasions asserted this right. In fact, this is the underlying assumption of all our legislation. In default of some restraining enactment, limiting its power in that direction, the General Conference must necessarily be the judge of its own acts. The only tribunal to which it is answerable is the tribunal of public opinion. A custom has prevailed since the Conference of 1836 of constituting a Committee on Judiciary to act during the sessions of the General Conference. There is no law requiring this, and of course no law defining the organization, the procedure, or the powers of this important committee. It is left to each General Conference to use its own judgment in these matters. A

General Conference is not suitably organized, as a whole, to act in a judicial capacity. A committee that will patiently listen to evidence, read documents and look up precedents, is a practical necessity. The Committee on Judiciary is created by the General Conference to attend to such matters. For all intents and purposes the Committee on Judiciary is the General Conference acting judicially. The principal business of the Committee on Judiciary in recent years has been to hear and decide appeals from the decisions of Annual Conferences and Judicial Conferences. The General Conference is at present our Final Court of Appeals. To this committee the General Conference may at any time refer constitutional questions for its consideration. The Conference may, however, overrule the decisions of the committee.

That our present bungling system of deciding constitutional issues is a makeshift, which does not compare in dignity and wisdom with the episcopal veto power, must be seen at a glance. However, it seems to be the best plan that can be devised under our present Constitution, and should not be given up until a better system can be devised. That it is not

altogether satisfactory is admitted by those who have looked into the matter.

Dr. R. J. Cooke (now bishop), in his book on Judicial Decisions of the General Conference of the Methodist Episcopal Church, says: "An examination of the General Conference records will reveal the fact that the reports of the Judiciary Committee are to a large extent, until comparatively recent years, of no value as precedents, since they contain no further record of the cases tried than a mere statement of the findings, and this without any assigned reason for the conclusions reached" (p. 31). The Journals of the succeeding General Conferences contain a record of the decisions that have been made down through the history of the Church. To again quote Dr. Cooke: "In these Journals there are contained decisions on legal questions of the highest importance, which, taken together, constitute a body of precedents as valuable to the administrator of the Discipline as the decisions of a supreme court are to the student of civil law. It may be that here and there a decision will be found which has become obsolete by reason of subsequent legislation, as is often the case in civil law, but that

decadent specimen is still valuable as material for history. The supremely important matter, however, is that consistency in the judicial decisions of the General Conference should be maintained. The importance of this will be readily conceded. Let it once become a justifiable opinion that the decisions of the highest court of appeal in the Church are purely arbitrary, and neither based upon nor in any degree influenced by precedent, and at once the authority of that court is contemned. Now, since each General Conference has a new Committee on Judiciary, it will not be surprising if opposing judgments on similar cases should be found in cases where the decisions of previous Judiciary Committees have not been consulted. But such a consultation at the General Conference during the trial of a case involves an examination of the Journal of each General Conference from the beginning, a duty which for its careful performance, at such a time and amid such circumstances, is almost, if not wholly, impossible" (p. 10).

When it is considered (1) that the Committee on Judiciary is composed of *members* of the *General Conference* who must be in their places during the business sessions of the Con-

ference, and that they are usually placed on other committees, thus giving them but little time for the consideration of judicial questions; (2) that they need not be men of high standing for learning; (3) that they may be men who are governed largely by their prejudices; (4) that they are not responsible to anyone in the sense that they can be called to account for a partisan decision; and (5) that their decision may be overthrown by a majority of one in the General Conference, after their report is made to that body, it will be readily seen that vast and vital interests are in peril during the sessions of our chief law-making body. The incongruity and the danger from this situation has made it clear to many serious minds that something should be done to remedy the evil.

The General Conference of 1908 appointed a strong commission on Judicial Procedure and authorized it to bring some plan before the Conference of 1912, with a view to additional legislation on this subject.

CHAPTER VIII

The Final Court of Appeals

It will be of interest to introduce a reference to the plan for a Final Court of Appeals. True, it was only an abortive attempt to introduce legislation with a view to conserving the fundamental law of the Church. History demonstrates that all great reforms come slowly. But if the reform is in the line of God's purpose, every failure will prove a stepping-stone to success. When the preachers of our Church see the value to themselves and to the Church of a reform in our judicial procedure, no power on earth can prevent the reform, for our preachers are the ultimate source of power; they hold the key to every situation. It will help the reader to get a clearer view of constitutional interpretation to know what was done by the General Conference of 1912 with the report of the Commission on Judicial Procedure.

In the Daily Advocate of May 8, 1912, there will be found the report with the discussion

of it. "R. J. Cooke presented the report of the Commission on Judicial Procedure, as follows:

THE FINAL COURT OF APPEALS

There shall be a Final Court of Appeals. This court shall have power to hear and determine all appeals coming to it in due course in the administration of the Church, as hereinafter provided, and any other question of law which may be referred to it by the General Conference.

This court shall consist of fifteen members, namely: Three bishops, six ministers, and six laymen, who shall be chosen by the General Conference as hereinafter provided.

The General Conference shall appoint a committee, consisting of three bishops, three ministers, and three laymen, who shall nominate the members for election by the General Conference. The episcopal members shall be nominated and elected quadrennially. At the first election three ministers and three laymen shall be nominated and elected to serve for four years, and three ministers and three laymen to serve for eight years, and thereafter a similar committee shall make nominations to fill all vacancies occurring by expiration of term or otherwise. In all cases the term of service shall begin with the adjournment of the General Conference. After the first election all elections to membership in the court, except of episcopal members and to fill vacancies, shall be for the full term of eight years.

All vacancies occurring in the membership of this court in the interim between the sessions of the General Conference shall be filled by the court until the succeeding General Conference.

No one shall be eligible to election to the General Conference during his term of service in the Final Court of Appeals.

Following each General Conference the Final Court of Appeals shall meet at the call of the bishops for the purpose of organization and the transaction of business, and thereafter it shall meet at such times and places as it shall itself determine; provided, that it shall always meet at the same time and place as the General Conference and continue in session until the final adjournment of the same.

Said Court of Appeals shall organize for the quadrennium at its first meeting after the adjournment of the General Conference by electing one of its members president and one secretary; it shall adopt rules for the conduct of its business. It shall certify its decisions promptly to the General Conference when in session, after they have been rendered, and with each decision shall be filed a brief statement of reasons therefor.

A majority of the entire Final Court of Appeals shall be necessary to render a decision, and such decision shall be final.

The decisions of this court shall be final, except in cases involving a constitutional question. Should the General Conference, by a majority of those present and voting, dissent from a decision of this court on a constitutional question, the General Conference shall, in that case, provide for the submission of the question to the Annual Conferences, and to the Lay Electoral Conferences which shall be called for this purpose, during the succeeding calendar year; and if a majority of all the members of the several Annual Conferences present and voting and a majority of all the members of the Lay Electoral Conferences present and voting shall concur with the General Conference, then the

dissenting opinion shall be the law of the Church; otherwise the decision of the Final Court of Appeals shall stand.

This report bears the marks of care in its preparation. The commission was composed of judicious and learned men, and they were given four years to think out their plan. The task of supporting the report before the General Conference was committed to Dr. Cooke, from whose opening speech we take a few extracts. He said in part:

"This desire for a final court which shall determine or help to determine the constitutionality of the acts of the General Conference, thereby safeguarding the Constitution itself, and through the Constitution the various interests of our Church, is not new; it is not of yesterday; it is not, as has been represented, something that has been evolved from the inner consciousness of busy lawyers. . . . In 1816, a few weeks after the death of Bishop Asbury, his posthumous address was read to the General Conference, and in that address Bishop Asbury pleaded for a 'Committee on Safety' which could protect the Restrictive Rules of the Church. I shall not stop to say why his request was not granted. . . . In 1820

the General Conference itself declared, by its own voice, that it was incompetent to sit in judgment on its own acts. In 1824 the same principle was announced. In 1836, when the Judiciary Committee was first established, the same subject was up. In 1848 the whole Board of Bishops, through the presiding bishop, suggested the formation of an Annual Conference to be composed of one member from each district who shall sit as a Court of Appeals, and shall review the acts of the General Conference, and shall suspend the acts of the General Conference if, in its judgment, they may be found to be unconstitutional, until the next General Conference. The General Conference of 1848, unable to deal with it, unable to do anything with it, but not willing to reject it, referred it to the General Conference of 1852. In that Conference it was referred to a Committee on Laws, which declared that this subject had been up from the beginning and that some such provision should be made for it. It was brought up again in 1860, but there was no legislation. In 1872 the Court of Appeals was formed. In 1876 the Court of Appeals was stricken out. . . . I appeal to your reason, and not to your prejudg-

ment, to give this court a chance before the people. Give it a chance before the Church! Let us not be afraid of the Church or of the people. If it is right, it will win, and it ought to win; if it is not right, it will go down, and it ought to go down, and no one will help it to go down quicker than I will; and I ask you to vote for it in the fear of God."

It would appear from the closing appeal of this speech of Dr. Cooke's that his wish was that the plan for a Final Court of Appeals be submitted to the Church as an amendment to the Constitution with a view to having it incorporated into the fundamental law of the Church. It was not made as plain as it should be what was aimed at in the report—a statutory or a constitutional enactment. There were two distinct propositions in the report, which must have confused and divided the General Conference on the proposition as a whole. As a Court of Appeals it was to have power to pass finally on all cases referred to it in the orderly development of judicial procedure. The need for such a court to act in the interim of General Conference is very great and generally admitted. In addition, the report proposed that the same body of

men constituted as a supreme court of the Church should pass judgment on the constitutionality of legislation. This was a distinct and an entirely different proposition. These matters should have been reported separately, as there were those who favored the former proposition who opposed the latter proposition.

Dr. Edgar Blake gave one of the strongest speeches in opposition to the report. In part he said:

"I have read this report of the Committee on Judicial Procedure with profound interest. I think we ought to bear in mind with great clearness that two distinct propositions are brought before us in this report. One proposition provides for a Final Court of Appeals, that shall sit in the intervals of the General Conference sessions to hear such matters as shall come before it for settlement, as provided in the paragraph that precedes this provision for the Final Court of Appeals. For instance, very frequently a Conference takes an exception or an appeal from the ruling of the presiding bishop upon a question of law. There is no body competent to settle that appeal save the General Confer-

ence, and frequently a Conference must wait two or three or four years before its appeal can be settled. Sometimes it occurs that a member on trial feels that his interests have been jeopardized by a wrong construction of the law; but there is no possibility of an appeal from the construction of the law that has been given to him save to the General Conference. It means ofttimes that he must wait one or two or three years, or even four years, before his case can be settled. This proposition provides that there shall be a final court of appeals that shall sit in the intervals of the General Conference session, that can hear appeals of this character and pass upon them and have their judgment in such cases final. I believe that in so far as the report goes, to that extent it is exceedingly wise and desirable, and we should have it. But the report does not stop there. The report goes on and provides for a court that shall sit while the General Conference is in session; that it shall pass upon the constitutionality of the enactments of the General Conference, such as may be referred to it. If it shall pass unfavorably upon the actions of the General Conference referred to it, this body has no power to go over the

decision of this Final Court of Appeals. All that it can do is to send its enactments to the Annual Conferences for final settlement there. . . . . I wish we could see it possible to make provision for a Court of Appeals, with power to decide questions of appeal in the intervals of the General Conference sessions, questions not involving the constitutionality of the enactments of the General Conference. I wish we might see such action here this morning as would put forth from this body an enactment that would hold in this body, by its own importance and power, the right to say what is constitutional and what is not. Let us hold the power in our own grip that our fathers gave unto us and treasure it as a righteous inheritance."

The closing of Dr. Blake's argument would indicate that he is jealous of the power of the General Conference, and appears a little fearful lest the Annual Conferences might not always indorse the enactments of the General Conference. By the very terms of the report under consideration the General Conference would not surrender its right to interpret the Constitution except when a majority of its members should favor referring such questions

to a tribunal of experts. The logic of Dr. Blake's argument would deprive the General Conference of that privilege. A General Conference made up of eight hundred or nine hundred delegates, who are rushed with all kinds of business from day to day, is not wisely constituted to pass judicially on a question of constitutional law. It requires time for study and calmness of deliberation to arrive at just and impartial conclusions. We agree with Dr. Blake that these two propositions should have been kept apart and presented separately. The Court of Appeals as a distinctively appellate court of last resort should be the logical climax of our legislation on judicial procedure, and should be created by statutory legislation to harmonize with other parts of the Discipline. A supreme court to pass on the constitutionality of legislation should, by analogy, be imbedded in the Constitution.

The speech of Judge T. H. Anderson, of Washington, D. C., set forth briefly the underlying principles involved in the issue, and should have carried great weight with the Conference. He said:

"No single question, thus far presented to this great Conference or that may be hereafter

presented, can lay higher claim to our serious thought and calm reflection than the one now under debate. It involves the organic law of the Church, and is therefore fundamental.

"The highest duty of the Church, as well as of the state, is to safeguard the fundamental law of its existence. There was never a time in the history of the Church or in the history of the state when it was more important that temperate speech and sober judgment should prevail. In the passing fever of the hour dangerous heresies are being widely proclaimed and fundamental and time-honored institutions of government are being assailed. The most vicious attack of the advocates of these destructive heresies is upon the citadel of the law. The seductive argument is that as the power to enact law for the government of the people is derived from the people, the people themselves, in their aggregate capacity, have the right not only to make the law but to declare its meaning. Thus at one blow they would strike down two of the great coordinate branches of the government, the legislative and the judiciary—a theory so repugnant to all ideas of orderly government that, once intrenched in the hearts of the people, it will

mark the beginning of national decay and of universal anarchy. Therefore, it is that we should take heed lest we, too, not intentionally, of course, but unwittingly, lose sight of our own great fundamental law of the Church, instead of maintaining it inviolate.

"The Constitution of the Church is the organic law, to which all other laws, of its own creation, must be conformed. Any law or rule of the Church that does not so conform is unconstitutional. The will of the Church is expressed in its Constitution, and until changed, through constitutionally appointed methods, its will must be obeyed.

"But who is to determine whether the Constitution has been violated in a given case? Who shall decide whether a given law has the sanction of the Constitution, or is invalid because it violates it? Shall so grave a question be left to the hasty judgment of the General Conference that passed it?

"Hitherto the answer has been, yes. If this anomalous situation, this dual power of the General Conference, is to stand, then in the future, as in the past, every law enacted by this great body will carry with it its own constitutional sanction. This being so, it follows

both in law and in fact that every such law is constitutional *because* the General Conference has so declared by the mere fiat of its own power. A more perfect illustration of a *reductio ad absurdum* could not well be imagined. And yet, absurd as it seems, this is precisely the position we now occupy. The same body that makes the law reserves to itself the right to interpret it. Is it to be assumed that the General Conference, after the manner of ancient kings, 'can do no wrong'? That this great body would knowingly violate the Constitution is unthinkable, but that its judgment is infallible is likewise unthinkable.

"This remarkable situation is so out of harmony with reason and the eternal fitness of things that the wonder is that it has been so long endured.

"When the question of the constitutionality of an act of Congress was first raised before the Supreme Court of the United States, and that august tribunal, speaking through its great chief justice, John Marshall, that matchless expounder of the Constitution, held that the law under consideration was unconstitutional, and therefore void, a great statesman declared that the Supreme Court of the United

States had no power to declare an act of Congress unconstitutional, and that in doing so it was guilty of treason, the argument being that when Congress passed a law it likewise passed upon its constitutionality.

"Fortunately for the Constitution and the liberties of the people this dual power of Congress, as then contended for, was rejected, otherwise one of the three great coordinate branches of the government would have been overthrown at the outstart.

"But it is said that these great questions of law may, under our present system, be referred to your Committee on Judiciary. For what? I ask. For its final determination? No, but simply for its opinion, which you may accept or reject at will, and if rejected, there is no further appeal. Whereas, under the plan proposed by the commission, the whole question may, by referendum, go back to the Church for its own final determination, through its Annual and Lay Electoral Conferences, thus wisely providing that the Final Court of Appeals shall not only answer to this body, but to the Church at large for the great trust reposed in it. So that when we speak of a decision of the Court of Appeals as final

we clearly understand that its decisions are final only in the sense that they are the final judicial determination of the question involved, subject to the power of the Church to affirm or reject its decisions upon all Constitutional questions at will. Again, the Final Court of Appeals [*as proposed*], like the Federal and State Courts, has no power to act, under the plan proposed, except in cases properly brought before it; that is, upon such cases only as may come to it in due course by appeal or upon questions of law, submitted to it by the General Conference. It can never act upon its own initiative, because it possesses no such power."

The argument of Judge Anderson is well worthy of careful and serious consideration by everyone who loves the Church and is concerned for the future preservation of the rights and liberties of our ministers and our churches. He makes it plain that our present situation is unreasonable and intolerable. He does not make it clear, nor does he attempt to prove, that the plan submitted by the Commission on Judicial Procedure is the only plan or the best plan to put a check on hasty and illegal legislation by our General Conferences.

The proposition to establish a Final Court of Appeals was rejected by the General Conference of 1912. The discussion over the issue, however, must have had a wholesome effect. Having read the entire discussion carefully it is as plain as anything can be that a large number of the leading spirits of the Conference were opposed to it because they were opposed to any limitation on their own powers. They wanted to do as they pleased, without hindrance or restraint. They produced no argument of weight to support their objection.

One speaker made a short speech that embodied about all the wisdom that was uttered by the opposition. He said: "I am opposed to discussing whether we will have a final court. These things are so closely allied that we cannot discuss it suitably. I believe that we ought to take this up upon the principle that there is proposed the matter of having a court. The next thing is this: I want to oppose both in one thing. If that is not done, you will go over and over and over. And I hope that we can take it up from the beginning and go through. My belief is that we do not want anything of the kind; and that if we did, this that is proposed is not the thing to do."

Not much logic or reason in that, but it evidently expressed the sentiment of the majority.

The plan as outlined by the Commission on Judicial Procedure, and reported to the General Conference of 1912, would be a great advance over the present loose method of conducting the business of the Church. We believe, however, that it was defective at several points. We refer to it as a matter that is past, for it is not now before the Church. It was an abortive effort at constitutional reform. First, its provision for the nomination of the court is open to the objection that the Committee could quite easily be influenced by the sinister influences of any Conference. Second, its members would be in too irresponsible a position before the Church to be trusted with such vast power. Third, it would not have power enough to answer the needs of the Church. The worst kind of legislation could be passed by any General Conference with a majority of one—and the court would be powerless to prevent it or check it, for it could not consider a question unless it was referred to it.

CHAPTER IX

Revolutionary Legislation

It has been clearly proven in the preceding chapters that we have at present no sufficient safeguard in the Constitution of the Church to prevent revolutionary legislation by the General Conference. It should be made clear what we mean by revolutionary legislation. We mean legislation that is calculated to overthrow the fundamental principles of the Church—such matters as are included in the Constitution of the Church. The doctrines of the Church cannot be changed without a revolution. The episcopacy of the Church cannot be changed without a revolution. The General Rules of the Church cannot be changed without a revolution. A revolution within the Church may be brought about in a regular, orderly, and decent way by means of the constitutional process. Let those who favor a change in doctrine, in polity, or in moral government submit their ideas to the Church for

inspection and discussion. If they are right the discussion will do good, and the whole Church, including laity, Annual Conferences, and the General Conference, will approve. Such a revolution might or might not be a good thing. Time alone could decide that question.

On the other hand, a revolution may be brought about in an irregular, disorderly, and disreputable manner. By this I mean that those who favor a change in the fundamental law may proceed in an unlawful manner to bring about the change they desire. They may become restive and impatient in their desire for a speedy change. This leads them to take a short cut, across the lots and through the woods, instead of going around by the public highway. Unfortunately for the Church, such men are often masters of diplomacy and masters of assemblies. They are so wise that they think they are wise enough to think for the whole Church. Their aim may be good, but their method is at fault. They would compass a revolution by *revolutionary means.* They would use the General Conference, which is a creature of the Constitution, to destroy the Constitution itself. Such a course is irregu-

lar, disorderly, and disreputable. This language may appear to some to be strong. It is intended to be strong enough to make the point clear and impressive.

We shall now look briefly into some recent legislation and see how it compares with the Constitution. How about the doctrines of the Church? Has the General Conference surreptitiously attempted to revolutionize the doctrines of Methodism? Let us glance at what has been done on the subject of the relation of childhood to the Church. Here is a twilight zone where the sappers and miners could work undetected. The position of our Church is that infant children until they know right from wrong, are innocent of any actual transgression, and therefore are heirs of heaven through the unconditional benefits of the atonement. We have always been satisfied with the authority of the Saviour on that point: "Suffer little children to come unto me, and forbid them not; for of such is the kingdom of God." The principle is simple enough and the authority is plain enough. We believe in the baptism of children, as a sign of regeneration to be realized after they arrive at years of understanding. We do not believe it

is essential to their salvation, nor do we believe that it is a mark of their profession or of their relation to the Church. Their salvation, in case of death, is wholly dependent on their moral innocence and purity, not on the relation they sustain to the visible Church. The Church should recognize their relation to the kingdom of God in the ordinance of baptism; it should instruct them in the doctrines of God's Word; it should furnish before their eyes patterns of true piety, and it should train them toward the goal of an inner experience of God's love. In recent years there has been an attempt to pervert these plain and wholesome truths in the interest of a discredited theory that oscillates between Pelagianism and baptismal regeneration. I quote from the Discipline of 1912, page 48, ¶50.

> We regard all children who have been baptized as placed in visible covenant relation to God, and as probationers under the special care and supervision of the Church.

According to that, infants a week old might be counted as church members on probation in good standing. A pastor could skirmish around through the community and might secure a good many probationers in that way.

Our theology implies that all members of the Church, including probationers, are people who voluntarily seek the Church as a means of their soul's salvation. "Such a society is no other than a company of men having the form and seeking the power of godliness, united in order to pray together, to receive the word of exhortation, and watch over one another in love, that they may help each other to work out their salvation." The General Rules say:

> There is only one condition previously required of those who desire admission into these societies—"a desire to flee from the wrath to come, and to be saved from their sins." But wherever this is really fixed in the soul it will be shown by its fruits.

We do not repudiate the doctrine of man's inherent depravity in order to secure the salvation of children. Art. VII of Articles of Religion reads:

> Original sin standeth not in the following of Adam (as the Pelagians do vainly talk), but it is the corruption of the nature of every man, that naturally is engendered of the offspring of Adam, whereby man is very far gone from original righteousness, and of his own nature is inclined to evil, and that continually.

The General Rules and the Articles of Religion are in the Constitution of the Church

and the General Conference has no right to legislate so as to directly or indirectly modify the doctrinal statements of the Church, except it is done by first securing the concurrence of all the Annual Conferences. See the First Restrictive Rule:

> The General Conference shall not revoke, alter, nor change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

There is another "twilight zone" where legislation has been smuggled into the Discipline whose indirect effect is to undo the doctrines of the Church. Our bishops are the natural guardians of the Constitution of the Church, especially of the doctrines of our most holy faith. It is their special task, to which they voluntarily consecrate themselves when they enter the holy office. The General Conference has no right to relieve them of this responsibility, nor has it a right to pass laws designed to make it easier to evade their responsibility.

Our theological schools are established to instruct young men preparing for the Christian ministry, that they may have a better understanding of Christian doctrine, and be better able to expound the Word of God. A teacher

in a theological school can undermine the faith of student candidates for the ministry, and escape detection for a long time. An unsound teacher can easily take advantage of the comparative privacy and secrecy of the classroom to teach doctrines that would not bear the light of open discussion. Teachers in theological seminaries are under the same ordination vows as other preachers, and are not entitled to special legislation to protect them in wrongdoing. Look at ¶206, Discipline of 1912, under the "Powers" (of bishops):

> Bishops are relieved from the duty of investigating and reporting upon charges of erroneous teaching in our theological schools; but when charges of that nature are made to, or laid before them, they may refer the same without action thereon to the Annual Conference of which the accused is a member for such proceeding as such Conference may deem appropriate in the premises. If, however, the professor be a layman, the charges shall be sent to his pastor and he shall be brought to trial according to the provisions of ¶ 247 of the Discipline. But in case the complaints affect the manner of teaching, or personal fitness, and not doctrinal soundness, the Bishops, after due consideration, shall communicate their judgment in the case to the governing board of the school directly concerned.

That certainly looks like special legislation. It was enacted at the General Confer-

ence of 1908 upon the recommendation of the Committee on Education.

Any minister of our Church who is in the pastorate may have his character challenged by one person—minister or member—who may be interested enough to formulate a bill of charges, and then must follow an investigation or a trial. Not so the teachers in our theological schools. The General Conference of 1908 took a special interest in *them,* and double-guarded all approaches to their ministerial character, especially when they are accused of undermining our doctrines. In proof of this see ¶246:

> Whenever specific complaint is made in writing and signed by five responsible persons, members or ministers of the Methodist Episcopal Church, charging a teacher in one of our theological schools, who is a minister, with violating his pledge to the bishops of loyalty to our doctrine and polity, said complaint shall be lodged with the superintendent within whose district the accused holds his Quarterly Conference membership, who shall carefully consider the same; and if in his opinion the complaint is of sufficient gravity to require an investigation he shall immediately proceed according to the provisions of the Discipline in ¶243.

Notice how the difficulties have been piled in front of the loyal, courageous, educated minister or member who puts himself to great

study and trouble for the sake of the purity and the perpetuity of the Church. He must first personally investigate the case until he becomes convinced of the erroneous teaching, of its nature, and wherein it is a departure from the standards of the Church. This requires a great deal of time, labor, and often expense. Then he must get five others who are capable, interested, and willing to pursue a like course of investigation and affix their names to the charges. Then the district superintendent of the man accused, who may be a personal friend, or who may be over-cautious, must examine the charges to see if "in his opinion, the complaint is of sufficient gravity to require an investigation." All of which goes to make it practically impossible for a teacher in our schools for educating and training preachers to be brought to trial for unsoundness in doctrine. What right had the General Conference to pass such partisan legislation? No right whatever. It is a violation of the spirit of the Constitution; and out of harmony with the principles of Christian brotherhood.

How about our episcopacy? Our episcopacy is the backbone of our denominational polity. The Third Restrictive Rule says:

The General Conference shall not change nor alter any part or rule of our government so as to do away episcopacy, nor destroy the plan of our itinerant general superintendency.

In regard to the meaning of that rule there has been some earnest dispute, as we have seen over the presiding-elder controversy, which raged from 1812 to 1824. The conservative strict constructionists contended that the word "plan" involved the custom of allowing the presiding bishop to appoint his subordinate officers. The others did not allow this contention. But there never has been any dispute, and there is no possible room for dispute over the proposition that our bishops are *itinerant general superintendents.*

There was a strong sentiment in the General Conference of 1904 in favor of electing a colored bishop to have exclusive jurisdiction over the colored Conferences. When the vote was taken on the proposition of an amendment to the Constitution having that in view, it carried by an overwhelming majority, the vote being 517 to 27. But that Conference did not presume to enact such a law on its own responsibility, without consulting the Annual and the Lay Electoral Conference. They had respect for

the constitutional process and for the Constitution. To have elected a colored bishop with the instruction or the recommendation that his episcopal functions be limited in any way would have been a plain violation of the spirit and the letter of the Third Restrictive Rule.

Now, let us see what was done by the General Conference of 1912. In the Appendix of the Discipline of 1912, page 496, ¶542, we find the following:

> In the intervals of the Annual Conference sessions each resident bishop shall be held responsible for the administration of the spiritual and temporal interests of the Church within those Conferences adjacent to his residence. Thirty days after the adjournment of an Annual Conference the presidency of the Conference shall pass to the Bishop resident in the group of which it forms a part, and shall so remain until thirty days before the session of the next ensuing Annual Conference.
>
> §3. For the purpose of securing more economical and efficient presidential administration, the Board of Bishops shall arrange the Conferences in America in three divisions and shall assign each bishop for presidential administration to the Annual Conferences of the Division within which he has his official residence.

There is the origin of our much-heralded "Contiguous and Continuous Episcopal Supervision." Zion's Herald, an unofficial independent paper, published in Boston, claims the

credit for the passage of this law. However that may be, it was not passed by the General Conference as a mandatory law, but as a *recommendation* to the Board of Bishops. It is inserted in the Discipline as a *mandatory law,* but modestly placed *in the Appendix.* Why place it in the Appendix, unless its promulgators were a little ashamed of it? It may be a wise plan and good in itself. Our argument is that it should have been freely and widely discussed, and then submitted to the Church before a modification in government was attempted.

From the early days of our history there has been discussion favorable to diocesan episcopacy. When put to the actual test it has always been rejected by our preachers and people. The plan under which we are now operating, by virtue of the legislation of 1912, is plainly in the direction of a diocesan or a districted episcopacy. The scheme, however, is not in harmony with the Constitution, and consequently our bishops are under no moral or legal obligation to be governed by it. When taken seriously it destroys the *general* character of our episcopacy and establishes a *district* superintendency in its stead, which is a

plain violation of the Third Restrictive Rule. It also nullifies the meaning of the word "itinerant," as used in this rule, for it refers to itinerating as a general superintendent through the connection at large in official capacity.

If the law was legally passed, it is only statutory legislation at best, and can be changed or destroyed by any succeeding General Conference. It will not succeed as a relief measure or as a reformatory measure. If our bishops cannot make a success of administering their office by working in harmony with the Constitution of the Church, it is certain they cannot do it by going contrary to the Constitution, and thus destroying the very instrument that creates the episcopacy. The General Conference has no right whatever to alter, change, or tamper with in any way the episcopacy of the Church—except as it may take the initiatory steps toward a change in wording of the Third Restrictive Rule.

Look again at what was done by the General Conference of 1912 in regard to the Retirement of Bishops. See Discipline, ¶210, §2 and §3:

§2. A general superintendent, at the close of the General Conference nearest his seventy-third birthday,

shall be released from the obligation to travel through the connection at large, and from residential supervision.

§3. A general superintendent at any age and for any reason deemed sufficient by the General Conference may be released by that body from the obligation to travel through the connection at large, and from residential supervision.

Our bishops are elected for life, or during good behavior. They are amenable to the General Conference for their conduct, which body may place them on trial, depose them from office, or expel them from membership in the Church. A General Conference has no right to fix an age limit for the retirement of bishops. If it has such a right, it has as good a right to fix the age at sixty as at seventy-five. If there is to be an age limit fixed by law, it must be done by amending the Constitution, and it cannot be done legally in any other way.

To enact into cold type that a General Conference may retire any bishop at any time and for any cause is to go the whole limit of absurdity. According to that theory, every bishop on the board may be removed at every General Conference, and that without any assignable reason except that somebody else wants the office. That is not the kind of an

episcopacy that was established by Asbury, McKendree, Soule, Cooper, and Lee. It is not the kind we have now, for the law has never been changed by anyone who had the right to change it. The entire Church must agree to it before any change can be made in the law governing our episcopacy. These are samples of recent legislation which go to show that there is an irregular and an unlawful revolution going on within our beloved Methodism that will ultimate in the overthrow of our time-honored institutions unless it is speedily checked. What has appeared in the Discipline up to this time is not the limit of unconstitutional legislation. There is more and worse in preparation. We sincerely hope that a better disposition will prevail. It is time to call a halt. At present there is no way whereby force can be applied to prevent wrongdoing by a General Conference, except as public opinion may be applied as a corrective.

If the process of undermining the Constitution is allowed to go on unchecked, it will result in "usurpation and tyranny," to use the expressive language of Bishop Harris. It is high time there was a remedy found for this particular evil.

CHAPTER X

The Remedy

That there is a remedy for this evil is as clear as sunlight. There is a remedy that is within reach of the pastors of Methodism. To deny that there is a remedy is to claim that the government of the Church is fundamentally at fault. Upon careful examination it will be found that the government of the Church is not fundamentally defective. There are provisions in the polity of the Church for mending the worst of ills. The preachers must learn where the trouble lies, what the remedy is, and then *apply the remedy.*

The careful reader of what has been written has not failed to observe that the General Conference has grown in its own estimation until it has an exaggerated opinion of its own importance. It has been repeatedly stated on the floor of the General Conference, in the official press of the Church, and in learned books on ecclesiastical polity, that the General Conference is the supreme power of the Church; that

it is executive, legislative, and judicial power, all in one, and that without limit. The Church generally has come to think that it is so, largely because no one has taken the pains to say that it is not so, and to give the proof. When those who make this great claim for the powers of the General Conference are pressed for their authority, they invariably quote from the grant of power contained in the Constitution, which says:

> The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions:

Here follow the Six Restrictive Rules. Everything turns on what is meant by "full power." Taken in its bald literalness, and without common sense or the historic imagination, one might be persuaded that the founders of the Constitution intended to surrender everything into the hands of the delegates from the Annual Conferences when they assembled in General Conference. It is just such an interpretation that has led General Conferences to ignore the rights of the episcopacy and the rights of the Annual Conferences. That the position is untenable is plainly seen when it is remem-

bered that the authors of that clause established and double-guarded an institution in our Church known as *our episcopacy.* They constituted the episcopacy a *permanent feature* of our polity and clothed it with ample executive and administrative powers. The episcopacy is in full possession of all these powers and prerogatives *during the session of a General Conference.* There is an influential school of Constitution Constructionists who treat the episcopacy of the Church as though it were a nonentity during the sessions of a General Conference. Whoever had charge of the amended and revised Constitution which was submitted to the Church for adoption by the General Conference of 1900, and which is now the Constitution of the Church, hinted broadly at that notion of the episcopacy. Paragraph 42, §3, reads:

> §3. The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference; but questions of law shall be decided by the General Conference.

The particular school of constructionists to which reference has just been made construe that section to mean that the presiding

bishop shall act as *moderator* of the General Conference, and that *only*. Their construction, however, is faulty, and will not endure the light of just criticism. "But questions of law shall be decided by the General Conference." This does not say that the Board of Bishops, as representatives of the episcopacy, may not render an opinion as to the constitutionality of proposed legislation. It does not say that the presiding officer may not read the law from the Discipline, nor protest against the passage of unconstitutional legislation. It simply says that the *final decision shall be by the General Conference.* It does not say whether the General Conference shall decide the question by a majority vote or by a two-thirds vote. Our real theory of episcopacy is that general superintendents are the executive officers of the denomination, and that their duty is to safeguard and enforce the Constitution of the Church *at all times,* especially during the sessions of a General Conference, when it is in the greatest danger of damage. The early traditions of American Methodism, as illustrated in the practices of Francis Asbury, William McKendree, and Joshua Soule, substantiate this idea. Their theory and practice is the *law*

to-day, even though it is not the *practice.* If our bishops in recent years had performed their duty fearlessly in all cases, the General Conference would not have stretched its power to excess. The practical problem now is to find a remedy for the evil. Nothing is to be gained by lamentation or recrimination. A solution is demanded.

The bishops are not the only ones at fault. The Annual Conferences are also at fault. When a General Conference usurps authority by enacting legislation that is in conflict with some provision of the Constitution, the rights of the Annual Conferences are disregarded and overridden. The Annual Conferences, composed of ministers who are on an equal footing with delegates to the General Conference and with those who hold the highest offices of the Church, have a right to be consulted in regard to all changes in the polity of the Church. They should calmly and firmly resent any intrusion upon their rights. They should publicly, by resolution, cause their sentiments to be known. If this were more generally done delegates to the General Conference would learn to walk more circumspectly. The Annual Conferences are the

original source of power. It is true that our Lay Electoral Conferences have an equal right with the Annual Conferences to elect delegates and to memorialize, but they meet only once in four years, and are in session but one day. They are composed of *delegates* that may be changed every Conference. They do not have the opportunity nor the responsibility of the preachers in the Annual Conferences. The ministers are *life members* of the Annual Conferences, and *not* delegates. The Annual Conference is the ecclesiastical home of the preacher. He spends a week of each year at the seat of Conference. He is the pastor and the natural leader of the laymen. So it bears repeating that the Annual Conferences are the original source of power in our Methodism. They should watch over the Constitution of their Church with a godly solicitude. To them, especially, must the appeal be made to push forward a movement to *conserve the Constitution of the Methodist Episcopal Church.*

The remedy must come by way of legislation that will give a modified veto power over legislation to our bishops, during the sessions of the General Conference. The President of the United States has a veto power over legisla-

tion by the Congress of the nation. He can veto any bill that comes to his desk if he can see good reason for doing so. He does not need to allege that it is unconstitutional. It is not a power that the President seeks for himself. It is a duty that is thrust upon him by the Constitution in the interest of all the people. The people desire that their Chief Executive shall have this preventive or negative power over legislation.

The General Conference is given "full power" to enact rules and regulations for the Church so long as those rules and regulations are in harmony with the purpose for which the Constitution of the Church was established, namely, "to *preserve, strengthen,* and *perpetuate* the *union* of *the connection.*" Over such legislation, or the enactment of such rules and regulations, the bishops should have no control. But when legislation is proposed whose *aim* or whose *effect* is to contravene and thus *destroy* the *effect* of the *Constitution itself,* they should be clothed with authority to interpose in behalf of the entire connection. An attempt was made by the General Conferences of 1820 and of 1824 to secure some such amendment to the Constitution. In both

instances the effort failed for reasons that we have explained. We believe the time has come in the development of the Church when the next logical step by way of legislation is the enactment of a law to give bishops the veto power over legislation. It is better that this movement emanate from pastors assembled in Annual Conference than that it be instigated by a General Conference. The effectiveness of such an amendment depends largely on its form. The Wilmington Conference passed an amendment, at its session held in Crisfield, Maryland, March 26, 1913, which is submitted to the Church for consideration. It is proposed to amend ¶42, §3, of the Constitution of the Church, which now reads:

> §3. The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference; but questions of law shall be decided by the General Conference.

That section is too obscure in regard to questions of order, and almost worthless in regard to questions of law. It should be clearly understood that questions of law are always questions that relate to the constitutional rights of the General Conference. Nobody questions the right of a General Conference to

pass any law or resolution it chooses so long as it does not conflict with the Constitution. The amendment as passed by the Wilmington Conference would so change this section that it would read:

"The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference. If the decision of the chair be sustained by a majority of those present and voting, his decision shall stand. The presiding officer of the day or any other general superintendent may raise the question of law in regard to any proposed legislation. When objection has thus been entered, the entire Board of General Superintendents shall take the matter under advisement and report their decision as soon as possible and their reasons for the decision. Their report shall be in writing and shall be printed in the Journal of the General Conference. Any member of the General Conference may raise the question of law, and if he be sustained by one third of the delegates present and voting, the general superintendents shall be required to submit their decision in writing to the General Conference. When a decision of the general superintendents has

been given their decision may be challenged, but it shall require two thirds of those present and voting to prevail over their decision."

The amendment was introduced and passed on Saturday, March 29, 1913. When the vote was taken it was found that there were sixty-eight in its favor and thirty-four against the proposition. Two thirds of those present and voting were in favor, which shows that a respectable majority of an average-sized Annual Conference see the advantages of such a law. There was no argument made against it. It does not seem that there is any sensible argument that can be made against it.

The provisions of this proposed amendment are worthy of special notice. It provides: (1) That *any general superintendent* may raise the question of constitutionality. In case the presiding officer is indifferent and all the others except one are indifferent or unobservant, that one can arrest the matter and force an episcopal consideration and an episcopal decision. It is a notable feature and one of great advantages to the Church at large. If only the presiding officer could raise the question of law, it might easily be arranged so that an unconstitutional or a questionable matter, could

be brought up when a bishop was in the chair who was known to be favorable to that measure. (2) It provides that the decision shall be in writing, accompanied by reasons for the decision to be printed in the Daily Advocate. This is a safeguard against a hasty, an arbitrary, or a partisan decision. (3) It provides that in case no bishop cares to push the issue of constitutionality, it may be raised on the floor of the Conference and pushed to a decision if supported by one third of the delegates. It is not difficult to imagine circumstances wherein such a situation might arise. (4) It provides that the decision of the bishops may be challenged. Their decision is not necessarily final. If members of the Conference can still see good reasons why the measure should pass, they may pass it over the veto of the bishops by securing a two-thirds majority of those present and voting. This feature is worthy of mention. In the Methodist Episcopal Church, South, there is no appeal from the decision of the bishops except to the Annual Conferences. Their method is so cumbersome and tedious that it practically amounts to an absolute veto. In our federal legislation, when the President of the United

States vetoes a measure of Congress, Congress may pass the bill over his veto and make it law. How cumbersome if it had to wait for presentation to all the State Legislatures before the matter could be decided!

What is constitutional? Does it make any difference whether legislation is constitutional or not? There is a tendency in some quarters to sneer at this question as though it were of trifling concern. Just prior to the General Conference of 1912 there appeared an editorial in Zion's Herald on this subject. The editor says: "In all the discussion that is going on relative to proposed changes in our methods of church government, there are not a few who are greatly disturbed for the Ark. They are constantly telling us that this or that is unconstitutional, that it cannot be done because it has never been done—all which may be true. But it leads one to ask the question: 'Who made the Constitution?' and 'For whom was it made?' One is reminded of the days of long ago, when there was One who did certain things on the Sabbath day of which his critics did not approve. Then it was he enunciated the very important principle that the Sabbath was made for man, and not man for the Sab-

bath. There seems to be a need of harking back to that principle in connection with all this talk about constitutionality." An influential paper like the organ of New England Methodism should use greater discrimination in the discussion of so profound a subject. Zion's Herald ought to know better.

Admitting that the Constitution was made for the Church, and that the Church has a right to change it, it does not follow that the General Conference has a right to change it. That great Conference does not include all the people of the Church, nor does it always know the mind of the Church. It is composed of delegates representing the Annual Conferences and the Lay Electoral Conferences, and it knows the mind of the Church when it has been instructed as to what the Church wants, not otherwise. For a General Conference to assume authority to change the government of the Church without first consulting the Church through the referendum known as the constitutional process is *revolutionary.* No amount of finespun theory or high-flown language can make it anything but revolutionary. It may seem like a strong statement to those who have not thought clearly on this

subject, but in reality it is a self-apparent truth that a minister or layman who has not respect unto the Constitution of his Church and to the constitutional process of changing it is not worthy of confidence and should not be trusted to go as a delegate to the General Conference. All who are worthy of such public confidence will favor some method of conserving the Constitution. We submit the amendment proposed by the Wilmington Conference as a solution of our difficulty. We believe it is worthy of the support of all the Annual Conferences. There will be no difficulty in persuading the laity of the Church on this point. Here are a few reasons that have influenced us to support this amendment. Let us clinch the matter with solid argument.

The Argument.

1. Our bishops are the proper persons to exercise guardianship over the Constitution of the Church during the sessions of a General Conference. As a matter of fact, the great majority of our people think they do have some such power at the present time. Very few ever study the Constitution critically. Where there is lack of knowledge the imagination

easily supplies the deficiency. It is a well-known fact that our bishops all attend the General Conference, that they have a prominent place on the platform, and that one of their number must preside over the deliberations of the Conference. It is easy for people who do not know the inner working of things to suppose that no one would dare to do wrong in the presence of so much dignity, wisdom, and authority.

Their office is the most distinguished in point of honor that there is within the gift of the Church. Great care is exercised in their selection. It requires two thirds of all the delegates to elect a bishop. No class of men are examined so carefully and critically before their elevation to office. They must be men of spotless reputation and well qualified intellectually before their election, and after they become bishops they give their undivided attention to the problems of the Church. What could be more natural and fitting than that they should be given authority to restrain the General Conference, in case an attempt be made to override the Constitution of the Church? Bishops have opportunity to confer together in a way that is not possible to a

large assembly. They become well acquainted with each other, they can deliberate easily, and they are all specialists on the administration of the Discipline. Could they not more quickly and more justly decide delicate and abstruse problems of constitutional interpretation than would be possible to a mass of delegates assembled promiscuously from all parts of the world? They are the natural leaders of the Church, and are responsible finally to the General Conference for their conduct. Upon such men, more than any others, should rest the high responsibility of passing judgment on the constitutionality of legislation.

2. The Church at large has a right to demand some such law as this in order to protect the Church from destruction. The rank and file of our members and our preachers, who bear the burdens and pay the bills of the Church, who labor hard, sacrifice, pay and pray, are helpless to save the Church from wreckage unless our bishops are empowered to stand guard over the Constitution. The Constitution is the fundamental law of the Church upon which the Church must rest as a sure foundation. Statutory legislation by the General Conference that is in harmony with

the Constitution and designed to carry out its spirit is a blessing, and should be allowed to stand. On the other hand, legislation that is subversive of the Constitution, and that aims to change the fundamental law without due respect to the constitutional process, is *revolutionary,* and will prove ruinous to the Church. Preachers and people have a right to know that the Church is to be protected against disaster from an internal foe. In other words, our delegates to General Conference should not be allowed to destroy the Constitution. To make sure they cannot if they desire to, the Annual and the Lay Electoral Conferences should demand the enactment of this or a similar amendment giving the bishops a veto power to protect the Constitution. If delegates are in favor of the Constitution, they will be in favor of protecting it. If they are not in favor of the Constitution, they will not be in favor of this amendment.

3. The bishops are entitled to the consideration implied in this amendment. The episcopacy of our Church is unique among ecclesiastical establishments. Some hostile critic has called it "An Iron Wheel," so merciless does it sometimes appear to the onlooker. In

fact, it is a most benevolent and beneficial institution. Our bishops are charged with the very great responsibility of appointing all district officers, pastors, and ministerial educators to their fields of labor annually. It is a tremendous responsibility. They are made overseers of the temporal and spiritual interests of the Church. They are the only connectional officers of the Church who are elected for life, and the only officers whose duty it is to bind the whole connection into a unity of organism. They are the chief executive officers of the Church and are saved from being autocrats by the fear of God and the restraint of the law. That they should have nothing to say during the sessions of a General Conference, in reference to the protection of the Constitution of the Church, is a monstrous situation and one that calls loudly for correction.

The episcopacy itself is one of the central features of the Constitution. The rights of our bishops, as general superintendents, are all involved in the Third Restrictive Rule. Unless there is restraint upon the Conference, these rights may be taken from our bishops, one by one, until nothing remains of the office

but the empty honor attached to the name. As already pointed out, the General Conference of 1912 enacted that the retirement of bishops should occur at a certain specified age. In the first place, it was only statutory legislation and may be entirely repealed at the very beginning of the next General Conference. In the next place, if the principle is allowed that the Conference can fix an age limit for retirement, it must follow that it can change such limit at any time, and fix it at any age it chooses. It was plainly a violation of the Third Restrictive Rule. But the bishops were powerless to protect themselves and the office they hold. If it is thought best to have an age limit for retirement, the matter should be submitted to the Church by way of an amendment to the Constitution. There is no other way whereby it can be done properly and legally. If this be true—and there is no doubt of its truth—it follows logically that our bishops should favor this proposed amendment and should do all in their power to secure its enactment into law. There would be no episcopacy if it were not for the Constitution, and there really is no episcopacy except such as is defined in the Constitution.

The reasonableness of the proposition for an episcopal veto power, and the practical necessity for it, ought to be manifest to every reader who has given attention to the facts and the arguments thus far advanced. We are convinced that there is no reasonable argument that can be advanced against it. However, objections will be made that are specious, and their show of reality will impress the casual reader or listener that there is something substantial to them. All possible arguments should be carefully weighed and passed along for what they are worth.

(1) It will be said that the General Conference is equal to the needs of the Church. To make good, it will be pointed out that our Methodism has had all its success of the past under our present policy. Those who advance this argument never refer to the number of times the Constitution has been stretched to the breaking point in the legislation of the past. A careful study of the *statutory* legislation that makes up the bulk of our Discipline reveals an amazing amount of incompetency and bungling. It is difficult to conceive how there could be greater bungling than has been exhibited in the legislation concerning mis-

sionary bishops and the Board of Foreign Missions, and the Epworth League, and the Board of Sunday Schools, and the Methodist Brotherhood. The subsidiary institutions of the Church have been so involved and tangled in the meshes of contradictory principles that the life of the Church is almost choked out. The record of the Church during the past twenty-five years is a sufficient answer to the claim that the Church has prospered under our present loose-jointed method of irresponsible legislation. That we have made progress along financial lines is not to be gainsaid, but we are not primarily a business organization. There is a business side to the church life, but our chief business is to save souls and build them up in righteousness. In that line we are not making a great success.

If all delegates to General Conferences were men of good judgment, and men learned in the history, the polity, and the doctrines of the Church, there would not be so much danger as there is now. But being composed as it has been and as it is likely to be, it is not sufficient in itself to secure wise and sound legislation. It needs the bishops of the Church to act in conjunction with it. If that is ever brought

about, mistakes will still be made, for bishops are not infallible.

(2) The bishops have too much power already. This argument is apt to have weight with preachers who have been wronged, or who imagine they have been injured by the arbitrary appointing power of a presiding bishop. No doubt many good and able preachers have gone to hard fields of labor with heavy hearts, and with thoughts they did not care to utter. If expressed, their thoughts would be something like this: "Our bishops have so much arbitrary power! They can rule us and ruin us! They can elevate us or crush us at their own pleasure!" It is such preachers and those who sympathize with them who are easily caught with the argument that our bishops have enough, if not too much, power now.

It will require a little patience to meet this argument. In the first place, in reference to the appointing power of the bishops. This is not so bad as it looks. It is true that in our system the bishop alone is responsible for the appointments. He could not be made responsible for them if he did not have power to make them. He could not possibly be deprived of his power and be held responsible. If he should

divide his power with another, it would do away with responsibility and introduce tyranny of the worst type over preachers and churches. There is no system that is not subject to abuse, and under every system good men are sometimes wronged. In the next place, there is no danger in conferring power on executive officers so long as that power is defined and safeguarded against abuse. The amendment we are proposing and defending authorizes our bishops to *protect and defend the Constitution of the Church, and nothing else.* Their authority and the authority of the General Conference is so defined that it is impossible for abuses to arise, except such as can be checked. The Church has no reason to fear the results of any additional power placed in the hands of our bishops so long as that power is exercised in the open and before the gaze of the whole Church. By the terms of the law which we propose and which we are discussing, no veto can be effective unless agreed to by a majority of the bishops, and they must give their reasons in writing before submitting their decision to the General Conference. If it is seen that their arguments are partisan, irrelevant, and unsound, the Confer-

ence can overturn their veto by a two-thirds vote.

(3) There remains the possibility that the majority on the Board of Bishops might be unsound in their views of church polity, and that they would reflect their own opinions in an episcopal veto. In such a circumstance there might be, and there probably would be, a sufficient number in the General Conference to confirm their opinion. There is not much likelihood that such a situation will ever arise, but in case it should the episcopal decision would *reveal a condition that already existed.* If such a condition ever comes to exist, it will be better for the Church to have the facts made known. A danger is partly overcome when it is discovered. If the Church generally acquiesces meekly and submissively to a recognized evil, no one will be able to charge unfairness upon another. Should such a day ever come, the day of hope will be past for the Church. We are of the number who believe that dangerous evils are at work that threaten to bring failure upon our Methodism; but we also believe that the heart of the Church is sound, and that we are able to overcome the evils. With united effort we can make the future more glorious than the past.

CHAPTER XI

The Ark of the Covenant

To the ancient people of Israel the ark of the covenant was a symbol and a pledge of divine favor. In Exod. 25. 10-22 we read of God's instruction to Moses in regard to the construction of this ark, which closes with these significant words: "And thou shalt put the mercy seat above the ark; and in the ark thou shalt put the testimony that I shall give thee. And there I will meet with thee, and I will commune with thee from above the mercy seat, from between the two cherubim which are upon the ark of the testimony, of all things which I will give thee in commandment unto the children of Israel."

It was afterward known among them as the "ark of the covenant." When the Children of Israel entered the land of promise they followed the ark into the waters of Jordan. "And the priests that bore the ark of the

covenant of the Lord stood firm on dry ground in the midst of Jordan, and all the Israelites passed over on dry ground, until all the people were passed clean over Jordan" (Josh. 3. 17).

In First Samuel, the fourth chapter, we learn of the grief that overwhelmed Israel when the ark was taken from them by the Philistines. The language of the wife of Phinehas, who gave birth to a child at that time, expressed the disconsolate spirit of her people. "And she named the child Ichabod, saying, The glory is departed from Israel: because the ark of God was taken, and because of her father-in-law and her husband. And she said, The glory is departed from Israel: for the ark of God is taken." It was not so bad, however, as it looked, for we read in the seventh chapter of the ark being returned to Israel, and of the renewal of their spiritual covenant with Jehovah.

The Constitution of the Methodist Episcopal Church is the ark of the covenant for her ministers and her people. It is the symbol and guarantee of our spiritual liberty and our spiritual power. *Back to the Constitution of the Church!* When we put our ark where it belongs, in front of the procession, and before

the eyes of all our people, then will come peace within our borders, and victory will perch upon our banners.

The episcopacy of the Church is given certain duties and guaranteed certain rights under the Constitution. The General Conference is given great power, with well-defined restrictions upon its prerogatives. The General Conference can easily protect itself against encroachments upon its rights on the part of the episcopacy, but the bishops cannot protect their own constitutional rights nor any feature of the Constitution without a veto power over legislation in case of a disposition on the part of a General Conference to break over the lines of its authority. The primary object of law is to define rights and liberties, of person and of property. The true aim of government is to defend and safeguard those rights and liberties. Liberty without law soon degenerates into license and becomes a farce, existing in name only.

History has taught its lessons. Ecclesiastical despotism has had much to do with bringing about the unspiritual and the unrighteous conditions that prevail in European countries. It was ecclesiastical despotism that drove the

cultured Puritans out of England in the days of Charles I and Archbishop Laud. America benefited as an incidental result of that tyranny. It brought forty thousand liberty-loving Christians to these shores and led to the establishment of our free institutions. Our Methodist people are educated in the public schools and in our church schools. They know the lessons of history. They know the principles of government. It is fair to assume that they are capable of understanding the government of their own Church; it is also fair to assume that they will support whatever is just and right, when the truth is set before them. When our people come to see that their privileges and blessings are due, in large measure, to the rights and liberties guaranteed in the Constitution of the Church, they will not be slow to safeguard that Constitution.

One serious defect has been discovered in the Constitution by this discussion: It contains no adequate provision for its own protection. To remedy that defect we offer an amendment whose aim is to give our chief pastors a qualified veto power, to be used solely for the protection of the Constitution. The Wilmington Conference has proclaimed that

it believes in constitutional government within the Church, and that we are willing to trust our general superintendents to give an interpretation of the Constitution whenever issues are raised over legislation at our General Conference. Will the other Annual Conferences of our connection join hands with us, that this proposition may be enacted into legislation?

Leadership is in the hands of those who are capable of leading. The duty is clearly upon those who are really wise and really learned to proceed with a constructive program for the future development of the Church. It is for those who believe that the Methodist Church was providentially raised up to spread scriptural holiness over the earth, to combine their efforts for the preservation and the perpetuity of the glorious cause. "A house divided against itself cannot stand." A Church torn by internal dissension will suddenly come to confusion and failure. There is only one possible basis of union in our Church: It is constitutional government. We must choose between constitutional government and *tyranny;* between constitutional government and *ruin.* The more highly educated of our ministry—the students and the scholars—should make it

plain by voice and pen that they are not on the side of tyranny and ruin.

In this discussion we have tried to stick closely to the law and to the facts. We have used some plain language, but only where it was necessary to convey the proper meaning. Our aim has been to be straightforward and convincing. Our appeal has been to the conscience and to the judgment of those who have the welfare of the Church at heart. We bring this to a close with the earnest prayer that the Holy Spirit may guide the mind of every reader, that God's will may be done.

For right is right, since God is God,
And right the day must win;
To doubt would be disloyalty,
To falter would be sin.

—*Faber.*